

1 UNITED STATES DISTRICT COURT  
2 NORTHERN DISTRICT OF OHIO  
3 WESTERN DIVISION

4 OLD GRANITE DEVELOPMENT, LTD., - Case No. 3:06-CV-2950  
5 Plaintiffs, - Toledo, Ohio  
6 v. - May 20, 2008  
7 CITY OF TOLEDO, - TRIAL  
8 Defendants. -  
-----

9  
10 VOLUME 2  
11 TRANSCRIPT OF TRIAL  
12 BEFORE THE HONORABLE JACK ZOUHARY  
13 UNITED STATES DISTRICT JUDGE, AND A JURY

14 APPEARANCES:

15 For the Plaintiffs: Barkan & Robon  
16 By: Marvin A. Robon  
17 R. Ethan Davis  
18 Suite 100  
19 1701 Woodlands Drive  
20 Maumee, OH 43537  
(419) 897-6500

21 For the Defendants: Bahret & Associates  
22 By: Robert J. Bahret  
23 Keith J. Watkins  
24 Suite 709  
25 7050 Spring Meadows, W  
Holland, OH 43528-1844  
(419) 861-7800

Court Reporter: Tracy L. Spore, RMR, CRR  
1716 Spielbusch Avenue  
Toledo, Ohio 43624  
(419) 243-3607

Proceedings recorded by mechanical stenography,  
transcript produced by notereading.

13:05:01 1 (Reconvened at 1:05 p.m.)

13:05:01 2 THE COURT: You may continue with your  
13:05:02 3 cross-examination.

13:05:03 4 MR. ROBON: Thank you, Your Honor.

13:05:04 5 - - -

13:05:04 6 CHRISTY SONCRANT, CROSS-EXAMINATION

13:05:06 7 BY MR. ROBON:

13:05:06 8 Q. Mrs. Soncrant, I'm going to hand you Exhibit  
13:05:10 9 Number 1. This is an aerial photo showing the Cambridge  
13:05:14 10 subdivision taken in 2006 prior to the -- do you  
13:05:19 11 recognize that?

13:05:20 12 A. Yes.

13:05:20 13 Q. And that is an accurate depiction of --

13:05:23 14 A. Of the area, yeah.

13:05:25 15 Q. From an aerial?

13:05:33 16 I'm going to hand you what's been marked as  
13:05:35 17 Exhibit Number 9. This goes all the way from Bates  
13:05:40 18 Road to Ford Road.

13:05:43 19 A. Okay.

13:05:45 20 Q. Does that accurately depict what is there?

13:05:47 21 A. Yes.

13:05:54 22 MR. ROBON: Mr. Bahret, this other one is  
13:05:57 23 Number 1.

13:05:58 24 MR. BAHRET: Thank you.

13:06:18 25 Q. Can you tell the jury the last time that you were

13:06:21 1 out to the Cambridge subdivision?

13:06:24 2 A. Oh, boy. It's been a while.

13:06:28 3 Q. Would you say it's been since the summer of 2006?

13:06:33 4 A. Oh, no. It's been more recent than that.

13:06:37 5 Q. Can you tell the jury the purpose of your

13:06:39 6 visiting the Cambridge subdivision?

13:06:44 7 A. Oh, I'm sorry, the subdivision? I've been on the  
13:06:47 8 railroad property, not the subdivision itself. I  
13:06:50 9 apologize.

13:06:50 10 Q. What were you doing on the railroad property?

13:06:53 11 A. Checking to see how the seeding is coming up, how  
13:06:56 12 the property is looking since we've been through there.

13:07:00 13 Q. Did you see the manhole that is 150 feet roughly  
13:07:06 14 from the property line of Cambridge?

13:07:10 15 A. Yes, I did.

13:07:11 16 Q. And did you see the water ponding on the side of  
13:07:14 17 the manhole?

13:07:19 18 A. I may have. There may have been water there  
13:07:22 19 when I was there.

13:07:23 20 Q. Did you wonder why the water's still there?

13:07:27 21 A. No, I did not.

13:07:30 22 Q. Did you make a note of it in your report or  
13:07:34 23 anything?

13:07:37 24 A. I do not do reports. The construction  
13:07:40 25 technician does those.

13:07:41 1 Q. Did you tell anybody in the City that there was  
13:07:45 2 water by the manhole; not in the manhole, but outside of  
13:07:49 3 it when you were there?

13:07:52 4 A. When I was there this last time, no, I did not.

13:07:55 5 Q. What about the time before?

13:07:56 6 A. Other times, yes, I have mentioned that there's  
13:08:00 7 water there.

13:08:00 8 Q. Who did you mention it to?

13:08:02 9 A. My boss.

13:08:04 10 Q. And that's Mr. Moline?

13:08:06 11 A. No, my direct boss, which is Mr. Scott Sibley.

13:08:11 12 Q. Scott?

13:08:11 13 A. Scott Sibley.

13:08:13 14 Q. Sibley. I've never heard that name. Was he  
13:08:16 15 involved in the construction of this project?

13:08:18 16 A. He is my boss, so he's the direct boss.

13:08:21 17 Q. Is he the one who made the decision not to do  
13:08:24 18 anything --

13:08:27 19 MR. BAHRET: Objection.

13:08:28 20 Q. -- about the flooding, after the pipe was  
13:08:32 21 severed?

13:08:34 22 A. He would be part of it, part of the  
13:08:37 23 decision-making process, yes.

13:08:47 24 THE COURT: That objection was overruled, by  
13:08:48 25 the way.

13:08:51 1 Q. I'm handing you what's been marked as Exhibit  
13:08:54 2 Number 37. This is a picture taken from the back of  
13:08:58 3 lot 15, which is the house that's on the Cambridge  
13:09:02 4 subdivision facing the railroad. Do you see the cable  
13:09:08 5 and the electrical boxes in the back?

13:09:11 6 A. Yes, I do.

13:09:12 7 Q. And do you recall that Cambridge -- within a  
13:09:27 8 couple feet there is a catch basin here between lots 15  
13:09:31 9 and 10?

13:09:32 10 A. I do recall there's a catch basin down there,  
13:09:35 11 yes.

13:09:35 12 Q. Did you see this kind of water when you were at  
13:09:37 13 the site?

13:09:38 14 A. I don't remember seeing that much water when I  
13:09:41 15 was out there.

13:09:43 16 Q. Would that, if you saw that today, would that  
13:09:46 17 give you concern?

13:09:53 18 A. I don't know if I would be -- I mean, I feel  
13:09:59 19 concern for the people whose property it is, but I can't  
13:10:03 20 say that it's anything that we did.

13:10:06 21 Q. So you're denying that the City has caused the  
13:10:09 22 excess flooding?

13:10:10 23 A. I do not believe they have.

13:10:13 24 Q. But you do admit to severing the --

13:10:17 25 A. Yes, I do.

13:10:19 1 Q. And you said just before we took a lunch break, I  
13:10:23 2 believe you said, yes, maybe I made a mistake?

13:10:27 3 A. Yes, I said that.

13:10:33 4 Q. I'm going to hand you Exhibit Number 20. This  
13:10:38 5 is a photograph --

13:11:40 6 MR. BAHRET: Judge, these lights are not  
13:11:42 7 individually controlled.

13:11:43 8 THE COURT: During the lunch break we played  
13:11:46 9 with the overhead. We therefore dimmed the overhead  
13:11:49 10 just directly above. It helped a little bit, but  
13:11:53 11 obviously is not the source of the problem.

13:11:55 12 BY MR. ROBON:

13:11:55 13 Q. When you were driving to the site in 2005 before  
13:11:59 14 anything took place, is this the path that you drove  
13:12:03 15 down with your vehicle with the trains off to the left  
13:12:08 16 and all this brush on the right?

13:12:11 17 A. Yes.

13:12:12 18 Q. Is that a fair depiction of what you saw from the  
13:12:14 19 windshield of your car?

13:12:15 20 A. Yes.

13:12:29 21 Q. I'm going to hand you what's been marked as  
13:12:31 22 Exhibit Number 18 and ask: Is that a fair depiction of  
13:12:37 23 the brambles and brush that abutted the Cambridge  
13:12:41 24 subdivision when you drove by in 2005 before any  
13:12:46 25 clearing took place?

13:12:47 1 A. It could be, yes.

13:12:48 2 Q. Very similar?

13:12:50 3 A. Yes.

13:12:50 4 Q. If not the same?

13:12:51 5 A. Yes.

13:12:56 6 Q. And the same with regard to Exhibit Number 19, is  
13:13:03 7 that the same type of brambles and trees and brush that  
13:13:07 8 was growing at the rear of the Cambridge subdivision?

13:13:10 9 A. I think so.

13:13:13 10 Q. And you see how thick they are?

13:13:16 11 A. Yes.

13:13:16 12 Q. And you see there are no leaves on them at that  
13:13:19 13 time, correct?

13:13:20 14 A. Correct.

13:13:21 15 Q. Were there leaves on them when you saw them?

13:13:23 16 A. No, there were not.

13:13:24 17 Q. They were just like this?

13:13:26 18 A. Yes.

13:13:26 19 Q. Exhibit Number 19.

13:13:43 20 I want you to look at Exhibit Number 60. This  
13:13:47 21 is an e-mail from you to Jim Bilicki dated June 4 of  
13:13:54 22 '06 -- I'm sorry. Yes, you forwarded it on to Mr.  
13:13:58 23 Bilicki?

13:13:59 24 A. Yes.

13:14:00 25 Q. It was an e-mail from John McCarthy?

13:14:02 1 A. Yes

13:14:07 2 Q. Was this the beginning of this engineer's  
13:14:10 3 concerns about what had happened with the Cambridge  
13:14:12 4 subdivision?

13:14:18 5 A. Probably pretty close to the time, yeah, because  
13:14:20 6 that's early June.

13:14:24 7 Q. Isn't he giving you suggestions on how to solve  
13:14:28 8 the problem?

13:14:43 9 A. He's talking about the trees that were there.

13:14:51 10 Q. Replanting them?

13:14:55 11 A. Yes.

13:14:56 12 Q. Would you acknowledge that the grade of the  
13:15:03 13 property, the height of the property where the water  
13:15:06 14 main is is now higher than what it was before the  
13:15:11 15 excavation took place next to the Cambridge subdivision?

13:15:16 16 A. I'm not 100 percent sure if it is or not.  
13:15:21 17 I'm -- I did not -- I don't know if we took any  
13:15:24 18 elevation shots of now how it is compared to when it was  
13:15:28 19 before.

13:15:29 20 Q. Were you aware that Ric-man Construction, the  
13:15:35 21 general contractor of the City, did not haul away any  
13:15:39 22 fill dirt or earth?

13:15:40 23 A. I knew that they didn't haul away at all, so yes.

13:15:43 24 Q. So if I have a six foot wide elliptical pipe, six  
13:15:48 25 feet high and six feet wide, a mile long, that's an



13:15:54 1 awful lot of fill dirt, isn't it?

13:15:56 2 A. Yes.

13:15:58 3 Q. It had to go someplace, right?

13:16:01 4 A. Right.

13:16:01 5 Q. And they didn't haul it away, so would you say a  
13:16:04 6 safe assumption for this jury is they left it on the  
13:16:07 7 height and raised the height?

13:16:08 8 A. Yes.

13:16:15 9 Q. Now we're going to look at Exhibit Number 104.  
13:16:23 10 This is another e-mail, June 19, originally June 15,  
13:16:29 11 from Mr. McCarthy, correct?

13:16:31 12 A. Yes.

13:16:32 13 Q. And you forwarded it on to Mr. Bilicki?

13:16:35 14 A. Yes, I did.

13:16:36 15 Q. And he was your boss?

13:16:39 16 A. No, that's the contractor.

13:16:40 17 Q. That's the contractor. Well, you gave the  
13:16:46 18 contractor this information, but you didn't follow up  
13:16:48 19 and ask them to do anything about it, did you?

13:16:51 20 A. Well, I wanted to keep him abreast of one of the  
13:16:55 21 complaints of a property owner.

13:17:00 22 Q. Did you look upon this as the complaint of the  
13:17:02 23 property owner, or did you look upon this as an opinion  
13:17:06 24 of a professional engineer who said there is a problem?

13:17:12 25 A. Probably more of an engineer, that there was a

13:17:16 1 problem.

13:17:17 2 Q. Probably more of, but did you view Mr. McCarthy  
13:17:22 3 as a pest, bothering you all the time?

13:17:25 4 A. I wouldn't call him a pest, no.

13:17:27 5 Q. Well, was he bothering you, calling you  
13:17:30 6 constantly asking for action?

13:17:32 7 A. He was calling, but it wasn't bothering.

13:17:37 8 Q. Did you ever give him any satisfaction?

13:17:41 9 A. No.

13:17:48 10 Q. Handing you what we've marked as Exhibit Number  
13:17:52 11 8, it's an e-mail dated June 27 of '06. It looks like  
13:18:00 12 you forwarded this to Cynthia Morefield. Who is she?

13:18:05 13 A. That's, again, with the contractor.

13:18:10 14 THE COURT: When it says Leslie, who is  
13:18:12 15 Leslie?

13:18:13 16 A. Leslie Kovacik, City lawyer.

13:18:15 17 Q. Would you read to the jury what you wrote?

13:18:23 18 MR. BAHRET: Could you move that off there,  
13:18:25 19 and can we approach? Also, 8 in your book is a  
13:18:28 20 different document.

13:18:29 21 MR. ROBON: I'm sorry; this is 105. It was  
13:18:32 22 marked as a previous exhibit.

13:18:35 23 THE COURT: It is a map?

13:18:36 24 MR. ROBON: This is -- I'm sorry, but my gal  
13:18:39 25 didn't cover up the old number.

13:18:42 1 THE COURT: So this is 105?

13:18:44 2 MR. ROBON: Yes.

13:18:46 3 MR. BAHRET: We still need to approach.

13:18:55 4 (Discussion had off the record.)

13:20:12 5 BY MR. ROBON:

13:20:13 6 Q. Did you say to Leslie: What do I do with this  
13:20:15 7 gentleman? referring to Mr. McCarthy?

13:20:19 8 A. Yes, I did.

13:20:32 9 Q. And he sent you another e-mail, Exhibit Number 61  
13:20:40 10 on August 19 of '06?

13:20:42 11 A. Okay.

13:20:43 12 Q. So one every week or two?

13:20:46 13 A. Yes.

13:20:47 14 Q. That's your recollection?

13:20:48 15 A. Yes.

13:20:49 16 MR. BAHRET: Exhibit 61?

13:20:51 17 MR. ROBON: Yes.

13:20:54 18 Q. I want you to identify Exhibit Number 97. Is  
13:20:59 19 this the contract that was entered into between the City  
13:21:04 20 of Toledo and Ric-man Construction?

13:21:06 21 A. Yes, it is.

13:21:15 22 Q. Did the contract provide for special care to be  
13:21:17 23 taken for trees and shrubbery; do you recall?

13:21:23 24 A. It probably -- it usually has directions on how  
13:21:27 25 to clear and grub.

13:21:30 1 Q. I'm going to call your attention to page SP-86 in  
13:21:39 2 this contract. It says, "Protection, removal, and  
13:21:44 3 repair of trees and shrubs." It says, "Consult with  
13:21:48 4 engineer," that means the contractor is to consult with  
13:21:54 5 the engineer?

13:21:54 6 A. Yes.

13:21:54 7 Q. Did Ric-man or Vermillion ever consult with you?

13:21:58 8 A. No, they did not.

13:21:59 9 Q. Did you consult with them?

13:22:01 10 A. No, I did not.

13:22:05 11 THE COURT: Well, in fairness, do you want  
13:22:07 12 to read the entire -- what you're reading from.

13:22:10 13 MR. ROBON: Subparagraph B, fell trees to be  
13:22:14 14 removed so as not to injure trees to remain.

13:22:16 15 THE COURT: No, part A. "Consult with  
13:22:18 16 engineer and obtain permission prior to removal of any  
13:22:21 17 tree or shrub not noted on the drawings to be removed  
13:22:25 18 well in advance of such removals."

13:22:28 19 BY MR. ROBON:

13:22:28 20 Q. Was there any kind of consultation?

13:22:30 21 A. No, there was not.

13:22:32 22 Q. On the drawings that were given to the  
13:22:36 23 contractor, did it show the big trees that were to be  
13:22:39 24 removed, or did it just show the demarcation line, cut  
13:22:44 25 everything in the way?

13:22:45 1 A. It just showed the right of way lines.

13:22:56 2 Q. So the City prepared the plans or had the plans  
13:23:02 3 prepared for Ric-man Construction, correct?

13:23:05 4 A. Correct.

13:23:06 5 Q. So the City would have had to demarcate or note,  
13:23:10 6 stay away five or ten feet from property lines, or  
13:23:14 7 anything like that?

13:23:14 8 A. That is correct.

13:23:15 9 Q. And the City did not do that?

13:23:16 10 A. No.

13:23:30 11 Q. Until today, did you ever acknowledge that  
13:23:36 12 perhaps the City made a mistake with the Cambridge  
13:23:40 13 subdivision?

13:23:41 14 A. No.

13:23:45 15 Q. And you do acknowledge it now?

13:23:47 16 A. I did earlier, yes.

13:23:49 17 MR. ROBON: No further questions.

13:23:51 18 THE COURT: Do you reserve the right to call  
13:23:54 19 during your case, I assume?

13:23:55 20 MR. BAHRET: I do.

13:23:55 21 THE COURT: You may step down then.

13:23:59 22 You may call your next witness.

13:24:33 23 (The witness was sworn by the clerk.)

13:24:57 24 THE COURT: That's the mike, and it works.

13:25:00 25 We ask you to swing it however you need to to be heard.

13:25:03 1 Thank you.

13:25:08 2 - - -

13:25:08 3 RAY HUBER, DIRECT EXAMINATION

13:25:09 4 BY MR. ROBON:

13:25:09 5 Q. Would you introduce yourself to the jury?

13:25:11 6 A. Good afternoon, everybody. My name is Ray  
13:25:14 7 Huber. I'm the Wood County engineer, Wood County,  
13:25:16 8 Ohio.

13:25:17 9 Q. And how long have you been the Wood County  
13:25:19 10 engineer?

13:25:19 11 A. About three and a half years now.

13:25:21 12 Q. And is the Wood County engineer responsible for  
13:25:25 13 public drainage?

13:25:27 14 A. For public drainage, yes.

13:25:28 15 Q. But you're not responsible for private drainage,  
13:25:31 16 correct?

13:25:31 17 A. That is correct.

13:25:32 18 Q. And the railroad property at the CSX railroad is  
13:25:37 19 considered private property; is it not?

13:25:40 20 A. That is correct.

13:25:40 21 Q. And the land adjacent to the CSX railroad,  
13:25:44 22 whether it's the Cambridge subdivision or other  
13:25:46 23 property, is private property, correct?

13:25:49 24 A. That is correct.

13:25:56 25 Q. Back in 2006, my understanding is the City of

13:25:59 1 Toledo engineers called you when they ran into a 24-inch  
13:26:04 2 diameter drain tile going from a manhole into a drainage  
13:26:11 3 ditch next to the active tracks; do you recall that?

13:26:15 4 A. No, sir, they did not.

13:26:17 5 Q. They didn't call you?

13:26:18 6 A. No, sir.

13:26:19 7 Q. Who did they call?

13:26:20 8 A. I don't know.

13:26:21 9 Q. Did you meet with them?

13:26:23 10 A. With the City of Toledo relative to that issue?

13:26:26 11 Q. Yes.

13:26:27 12 A. No, sir.

13:26:27 13 Q. You never did?

13:26:29 14 A. No.

13:26:30 15 Q. Did you meet with Christy Soncrant here?

13:26:34 16 A. I met with her in -- I believe it was July or  
13:26:38 17 sometime in that area of '06.

13:26:41 18 Q. Was that before or after that drain tile was  
13:26:45 19 severed; do you know?

13:26:46 20 A. I believe it was before.

13:26:49 21 Q. And can you tell the jury what you told her?

13:26:53 22 A. I advised her that about a month prior to that  
13:26:58 23 time that I had been on that property, the Cambridge  
13:27:01 24 subdivision property, to look at an issue relative to  
13:27:07 25 vegetation, and in the process of walking around the

13:27:11 1 property, I did observe a catch basin and a pipe inside  
13:27:16 2 that catch basin that appeared to go underneath the  
13:27:19 3 railroad or what was the old Toledo terminal railroad,  
13:27:22 4 which is on your graphics there called a waterline.  
13:27:26 5 And --

13:27:27 6 Q. Why don't you come over here and point that out  
13:27:29 7 for the jury here.

13:27:31 8 A. Sure.

13:27:43 9 Q. This is Exhibit Number 6.

13:27:51 10 A. I did observe this little catch basin at that  
13:27:54 11 point right here the day I was out there, which was in  
13:27:57 12 May of 2006. I did see a pipe that appeared to go  
13:28:00 13 under the -- it looked like the blue line, which is the  
13:28:04 14 old abandoned Toledo terminal railroad, which the City  
13:28:07 15 of Toledo was going to use to place their waterline.  
13:28:10 16 And at that time I noticed over here between the  
13:28:15 17 existing railroad and where the waterline was going to  
13:28:18 18 go, there appeared to be an outlet at that location  
13:28:21 19 right there.

13:28:22 20 Q. Right here, in the ditch?

13:28:25 21 A. That ditch. I had no way of knowing at that  
13:28:27 22 time if the two were connected. I have no evidence to  
13:28:30 23 that -- at that point. I had no idea as to which way  
13:28:33 24 the water, if it did go through there at all, whether it  
13:28:36 25 drained from here to there, or from there back up the



13:28:39 1 other way. But I did see it.

13:28:41 2 Q. And did you call it to the City's attention?

13:28:43 3 A. I subsequently -- I don't know whether I called  
13:28:46 4 it to her attention or you called it to my attention.  
13:28:49 5 Somehow the message got back to the City of Toledo. I  
13:28:52 6 agreed to meet with the City of Toledo on the job site  
13:28:55 7 about a month, month and a half later, something along  
13:28:59 8 those lines. I can't recall the exact date because I  
13:29:02 9 didn't note it down. But what I had done is I went  
13:29:04 10 back to the office. When I saw this, one of the things  
13:29:08 11 that as a county engineer I'm responsible for is  
13:29:11 12 drainage. I am sensitive to drainage issues. When I  
13:29:15 13 saw that I thought, I wonder if that's been considered,  
13:29:19 14 that this waterline is going to pass through there.  
13:29:22 15 Went back to the office, checked the old railroad plans;  
13:29:24 16 I think they're on file here somewhere. Noted on the  
13:29:28 17 railroad plans there was a 24-inch diameter pipe shown  
13:29:31 18 on the railroad drawings. I said, I wonder if the City  
13:29:35 19 has picked that up on their plans. I checked the copy  
13:29:38 20 of the plan I have in my office courtesy of the City of  
13:29:42 21 Toledo, noted it was not there. Said, uh-uh. Somebody  
13:29:45 22 better know about this. That's when I was in contact  
13:29:48 23 with the City. I took a copy of the railroad plans  
13:29:50 24 with me to the site when I met the young lady here,  
13:29:53 25 and --

13:29:54 1 Q. You're referring to Christy Soncrant?

13:29:58 2 A. I'm assuming this is Christy. Said you ought to  
13:30:01 3 be aware of this because I see it on my plan, here, see.  
13:30:04 4 I don't see it on your plans. As a courtesy, one  
13:30:07 5 professional to another professional, I offered that  
13:30:10 6 courtesy to the City of Toledo. That's the last I  
13:30:13 7 heard about it.

13:30:16 8 Q. When your deposition was taken, Mr. Huber, a  
13:30:20 9 question was asked: Now that this six-foot in diameter  
13:30:25 10 plus pipe is in the ground, how would you get water from  
13:30:33 11 the manhole over to this ditch?

13:30:37 12 And we talked about a pumping station.

13:30:39 13 A. If, in fact, that pipe were cut, and I had been  
13:30:43 14 advised by attorneys that it has been cut, the only way  
13:30:46 15 to get it over the railroad now would either to be  
13:30:48 16 probably to pump it across, up and over and into the  
13:30:52 17 ditch that's between the two railroads.

13:30:54 18 Q. Do you recall that you gave me a \$200,000  
13:30:58 19 estimate to do that?

13:30:58 20 MR. BAHRET: Objection.

13:30:59 21 THE COURT: Sustained.

13:31:01 22 MR. ROBON: I'll rephrase.

13:31:01 23 BY MR. ROBON:

13:31:01 24 Q. Can you advise the jury what you believe the cost  
13:31:04 25 of a pumping station would be to solve that problem?

13:31:07 1 A. At that time I did use a number of \$200,000 off  
13:31:11 2 the top of my head without any engineering expertise --  
13:31:15 3 or not expertise, but engineering data available to me  
13:31:18 4 to make a statement like that.

13:31:19 5 Q. But it would be a rough idea, \$10,000, \$20,000  
13:31:25 6 either way?

13:31:25 7 A. It might even be more today.

13:31:28 8 Q. More than 200, you mean?

13:31:30 9 A. More than 200.

13:31:31 10 Q. And permission would have to be obtained from the  
13:31:35 11 CSX railroad and the City of Toledo to put a pumping  
13:31:38 12 station at that point, correct?

13:31:41 13 MR. BAHRET: Objection, Your Honor. Two  
13:31:45 14 reasons: One, it's not only leading; secondly, this man  
13:31:48 15 would have no idea if he needs permission from the City  
13:31:52 16 of Toledo.

13:31:52 17 MR. ROBON: I'll rephrase the question.

13:31:53 18 THE COURT: Thank you.

13:31:55 19 BY MR. ROBON:

13:31:56 20 Q. Since the pumping station would be on the CSX  
13:31:59 21 right-of-way, what do you believe would be necessary to  
13:32:02 22 get permission?

13:32:11 23 THE COURT: If you know.

13:32:15 24 A. Number one, as I see the project right now, the  
13:32:18 25 pumping station would not be on the railroad's property.

13:32:20 1 It's on private property. But in order to get from  
13:32:23 2 private property to the middle of the ditch, you would  
13:32:26 3 have to cross railroad -- well, now, railroad property  
13:32:29 4 and the City of Toledo property. Permits would have to  
13:32:31 5 be obtained from both.

13:33:17 6 Q. I'm going to put up on the stand here Exhibit  
13:33:23 7 Number 37. This is a picture taken behind the house on  
13:33:28 8 lot 15 in the Cambridge subdivision. It was taken  
13:33:32 9 December 1 of '06 showing flooding. Do you believe that  
13:33:39 10 flooding may have been caused by the cutting of the  
13:33:42 11 manhole drainage pipe?

13:33:43 12 MR. BAHRET: Objection.

13:33:46 13 THE COURT: I'm not sure a proper  
13:33:48 14 foundation's been laid. Is that the basis for your  
13:33:52 15 objection?

13:33:53 16 MR. BAHRET: It's leading, no foundation.  
13:33:55 17 And if it's opinion testimony, it isn't to the proper  
13:33:58 18 standard. So there's three reasons.

13:34:01 19 MR. ROBON: I'll start over.

13:34:02 20 THE COURT: Thank you.

13:34:04 21 BY MR. ROBON:

13:34:04 22 Q. Mr. Huber, when you were out there, have you been  
13:34:07 23 out by the manhole since 2006?

13:34:11 24 A. Yes, on one other occasion.

13:34:13 25 Q. Did you see water ponding at the bottom outside

13:34:16 1 the manhole?

13:34:17 2 A. No, I did not.

13:34:18 3 Q. Was it summertime?

13:34:20 4 A. No, it was early spring, March, somewhere in that  
13:34:24 5 area.

13:34:25 6 Q. Things were frozen?

13:34:26 7 A. Things were pretty cold, yes. There was snow on  
13:34:29 8 the ground.

13:34:33 9 Q. The county approved the development plans for the  
13:34:36 10 Cambridge subdivision, correct?

13:34:38 11 A. That's correct.

13:34:39 12 Q. And there's a drainage plan for Cambridge  
13:34:42 13 subdivision?

13:34:43 14 A. That's correct.

13:34:43 15 Q. And the drainage plan shows several catch basins  
13:34:50 16 alongside or near the CSX property, one of which the  
13:34:55 17 testimony is right in this area between lots 15 and 16.  
13:35:01 18 My question to you is: If that drainage was installed  
13:35:07 19 according to the plans, should there be ponding of this  
13:35:12 20 depth and this magnitude on the back of the Cambridge  
13:35:15 21 subdivision?

13:35:16 22 MR. BAHRET: Objection.

13:35:19 23 THE COURT: I'll overrule.

13:35:22 24 MR. ROBON: You can answer.

13:35:23 25 A. This picture is on Cambridge's property?

13:35:26 1 Q. Yes.

13:35:26 2 A. It should not have been that deep, no, unless  
13:35:29 3 there was an obstruction.

13:35:31 4 Q. And I'm going to hand you -- we had those plans  
13:35:35 5 up here.

13:35:36 6 A. The railroad?

13:35:36 7 Q. Yeah.

13:35:38 8 I'm going to hand you what we've marked as  
13:35:41 9 Exhibit Number 45. Are these the plans that you gave  
13:35:49 10 to Christy Soncrant showing the crossover pipe back in  
13:35:54 11 2006?

13:35:57 12 A. Yes, it is, or a portion of it.

13:36:58 13 Q. Was there an implicit or other approval of the  
13:37:02 14 severing of the drainage pipe by your office in your  
13:37:05 15 opinion?

13:37:05 16 A. No.

13:37:07 17 MR. ROBON: No further questions.

13:37:09 18 THE COURT: You may cross.

13:37:10 19 MR. BAHRET: Thank you.

13:37:20 20 - - -

13:37:20 21 RAY HUBER, CROSS-EXAMINATION

13:37:20 22 BY MR. BAHRET:

13:37:20 23 Q. Mr. Huber, you know who I am, right?

13:37:23 24 A. Yes, sir.

13:37:24 25 Q. And you and I, I don't remember the date, but we

13:37:27 1 had occasion to speak with you down in the Wood County  
13:37:29 2 offices?

13:37:30 3 A. That is correct.

13:37:30 4 Q. And by the way, the attractive woman sitting  
13:37:35 5 there at the table, do you know who that is?

13:37:37 6 A. That is Linda Holmes, our assistant prosecuting  
13:37:40 7 attorney in Wood County.

13:37:43 8 Q. That was kind of a trick question. I was  
13:37:47 9 wondering which woman you were going to pick.

13:37:49 10 A. The best.

13:37:56 11 Q. Mr. Huber, my understanding is you don't have a  
13:37:58 12 subspecialty. You are an engineer?

13:38:00 13 A. That is correct.

13:38:01 14 Q. Civil engineer?

13:38:02 15 A. Right.

13:38:02 16 Q. But you're not a water expert?

13:38:04 17 A. No.

13:38:05 18 Q. And as far as actually doing any specific study  
13:38:09 19 out at the Cambridge property, you really didn't do any  
13:38:12 20 studies of any kind, did you?

13:38:14 21 A. No, sir.

13:38:14 22 Q. On this crossover pipe issue, that's basically  
13:38:19 23 been the focus of your testimony, and I want to talk  
13:38:21 24 about that. Do you know if the pipe was open?

13:38:28 25 A. When I observed it the day I was there, I did see

13:38:31 1 that the pipe had silt built up in it over Lord knows  
13:38:36 2 how long a time it was there. I can't say it was  
13:38:39 3 plugged completely.

13:38:40 4 Q. But it was mostly plugged; was it not?

13:38:43 5 A. Define "mostly."

13:38:44 6 Q. So that it would have a substantial impact on its  
13:38:47 7 ability to move water in any direction.

13:38:52 8 A. Again, "substantial impact." There was an  
13:38:55 9 obstruction to the flow of water; I could say that.

13:38:58 10 Q. Did you ever see the pipe when it was cut so you  
13:39:01 11 could see it from the middle looking out, its condition?

13:39:05 12 A. No, sir.

13:39:05 13 Q. Would that be the best way to judge how plugged  
13:39:08 14 it was?

13:39:08 15 A. That would be one way, yes.

13:39:10 16 Q. Okay. How far below ground was that pipe?

13:39:16 17 A. Not measuring it the day I was there, I estimated  
13:39:20 18 it was probably in the neighborhood of eight feet deep,  
13:39:23 19 maybe ten feet. The more I was standing looking at  
13:39:26 20 it --

13:39:27 21 Q. First of all, do you know for sure it's that  
13:39:31 22 deep, or could it have been six?

13:39:32 23 A. It could have been six. It could have been ten.  
13:39:35 24 I don't really --

13:39:36 25 Q. Do you know how deep the City water main is



13:39:38 1 installed?

13:39:39 2 A. Looking at the plans that I've looked at since  
13:39:44 3 this time, the rule of thumb for most waterlines that  
13:39:47 4 are built is the top of the pipe is usually five to six  
13:39:50 5 feet below grade. The pipe diameter itself is five and  
13:39:54 6 a half feet in diameter. The wall thickness of the  
13:39:57 7 pipe is probably close to a foot, accumulative value.  
13:40:03 8 So adding those numbers together, you're into the ground  
13:40:07 9 12, 13 feet right off the bat.

13:40:09 10 Q. I was referring to the top.

13:40:10 11 A. Five to six feet is the norm.

13:40:13 12 Q. And, in fact, that would be specified as a  
13:40:16 13 minimum. They'd be upset if it was less than that;  
13:40:19 14 would they not?

13:40:20 15 A. Normally, yes.

13:40:21 16 Q. And do you know if the crossover pipe could fit  
13:40:25 17 on top of the water main?

13:40:27 18 A. Could a pipe fit on top of it, or did it?

13:40:30 19 Q. Did it?

13:40:31 20 A. I don't know that.

13:40:31 21 Q. Okay. So you're not saying that one couldn't  
13:40:34 22 simply put another pipe in right where it was but going  
13:40:38 23 over the water main?

13:40:40 24 A. You're asking me my learned opinion. I would say  
13:40:44 25 it would be very impractical at this point.

13:40:46 1 Q. But you're not saying it can't be done?

13:40:48 2 A. I'm not saying it can't be done.

13:40:50 3 Q. Would you agree with me, sir, that when you were  
13:40:53 4 out there studying this project -- that's the wrong  
13:40:57 5 word. When you were there as a consultant, you were of  
13:41:00 6 the opinion that more likely than not that pipe, if it's  
13:41:03 7 draining any water at all --

13:41:04 8 MR. ROBON: I'm going to object to the use  
13:41:07 9 of the word "consultant." He was there as a county  
13:41:10 10 engineer, not as a consultant.

13:41:13 11 THE COURT: Well, let's ask the witness. In  
13:41:15 12 what position were you there?

13:41:17 13 THE WITNESS: I was there at the invite of  
13:41:18 14 the Wood County Commissioner to visit Mr. Jack Laskey,  
13:41:21 15 who had invited the commissioner to come to the site to  
13:41:24 16 look at vegetation.

13:41:26 17 BY MR. BAHRET:

13:41:26 18 Q. So would your role be like an informal  
13:41:30 19 consultant, or was I off base?

13:41:31 20 A. I was simply there as the county engineer as a  
13:41:34 21 guest of the Wood County Commissioner.

13:41:37 22 Q. Whatever your capacity was, when you were there,  
13:41:40 23 did you advise that you believed if the pipe was moving  
13:41:44 24 water, it was likely moving it from railroad property  
13:41:49 25 towards the private property next to it?

13:41:51 1 A. No.

13:41:51 2 Q. You did not?

13:41:52 3 A. Because I needed information to corroborate that  
13:41:56 4 information.

13:41:56 5 Q. Isn't it a fact that the railroads typically  
13:41:59 6 don't allow water from private property to come on the  
13:42:03 7 railroad property?

13:42:05 8 A. I can't answer that question.

13:42:07 9 Q. Did you advise Mr. Laskey that that was your  
13:42:12 10 thought?

13:42:12 11 A. No, I did not.

13:42:18 12 Q. What condition was the catch basin -- is that the  
13:42:22 13 proper term for this manhole, the catch basin?

13:42:25 14 A. Either one is acceptable.

13:42:27 15 Q. What was the condition of it?

13:42:28 16 A. It was broken down. It was not in good repair.  
13:42:32 17 How to describe its actual condition, from what I could  
13:42:36 18 observe, it was old block, concrete block. It had  
13:42:41 19 been -- some of it was broken down. The top was  
13:42:44 20 missing. Those were the small details that I do  
13:42:47 21 recall.

13:42:49 22 Q. Are you aware of the fact that Cambridge had a  
13:42:53 23 water issue on its land even before there was any  
13:42:55 24 construction on the pipeline?

13:42:57 25 A. No, sir.

13:43:24 1 Q. Can you read that? You can see it?

13:43:27 2 A. Yes.

13:43:28 3 Q. And that's from page 31 --

13:43:30 4 A. Okay.

13:43:30 5 Q. -- of the transcript.

13:43:32 6 And I asked you: "Did they have a water issue  
13:43:35 7 there?"

13:43:36 8 And you said, "They had some water issues down in  
13:43:39 9 here."

13:43:40 10 Question: This is before any construction?

13:43:42 11 And your answer is, "This is before any  
13:43:43 12 construction."

13:43:47 13 Was that --

13:43:48 14 A. You moved it away before I had a chance to --

13:43:53 15 Q. I'm sorry.

13:44:12 16 A. What timeframe are we looking at here? I'm  
13:44:15 17 totally confused as to what I'm reading here relative to  
13:44:18 18 the timeframes that were involved in this project. Are  
13:44:23 19 we talking about when I was there the first time or  
13:44:25 20 later?

13:44:26 21 Q. Before the construction. The question was, was  
13:44:30 22 there water before the construction? I think that's  
13:44:33 23 what the question said.

13:44:52 24 A. What is your specific question? I still haven't  
13:44:55 25 been able to come up with an answer to your specific

13:44:59 1 question.

13:44:59 2 Q. Was there a water issue in the back of Cambridge  
13:45:02 3 before construction?

13:45:04 4 A. Of the waterline?

13:45:05 5 Q. Yes. Before construction of the waterline and  
13:45:09 6 cutting of the drainage culvert and those sorts of  
13:45:13 7 things.

13:45:13 8 A. On the day that I was there, there didn't seem to  
13:45:16 9 be. But as I recall there had been some issues with  
13:45:18 10 water in that corner.

13:45:19 11 Q. They advised you that there was an issue,  
13:45:22 12 correct?

13:45:22 13 A. From what I can recollect, I think it was  
13:45:25 14 mentioned. But again, I'm not real clear on it in my  
13:45:29 15 mind.

13:45:29 16 Q. Mr. Huber, that would be the only way you'd know  
13:45:31 17 about it is if they told you, right?

13:45:34 18 A. That's correct.

13:45:41 19 Q. By the way, did you ever look in that manhole?

13:45:45 20 A. I looked into it, yes.

13:45:54 21 Q. When did do you that?

13:45:56 22 A. The day I was there, the first time. Two years  
13:45:59 23 ago this month.

13:46:14 24 Q. Can you read that?

13:46:15 25 A. We're looking at what? Question number -- the

13:46:18 1 second question down?

13:46:19 2 Q. Right. Page 61 of your deposition.

13:46:23 3 A. Okay.

13:46:25 4 Q. It says, "Did you open up the manhole and look  
13:46:27 5 down into it?"

13:46:28 6 A. I didn't have to look down into it. It was  
13:46:32 7 already opened. Okay.

13:46:39 8 Q. So in response to a question, "Did you open it up  
13:46:42 9 and look down into it?" You say, "I did not."

13:46:44 10 A. It was already opened.

13:46:46 11 Q. But what about the part of the question, "Did you  
13:46:47 12 look down into it?"

13:46:48 13 A. I did.

13:46:49 14 Q. Why doesn't it say that?

13:46:58 15 MR. ROBON: Objection, Your Honor. That's  
13:46:59 16 not the question he asked at the deposition.

13:47:01 17 A. Are we talking about opening it up or looking  
13:47:04 18 down into it?

13:47:05 19 Q. Well, it's a two-part question.

13:47:06 20 A. Well, the first part is, no, I did not because it  
13:47:10 21 was already opened.

13:47:11 22 Did I look down into it? Yes, I did.

13:47:24 23 Q. Let me get my book back together. All right,  
13:47:42 24 Mr. Huber. Let me get my notes together here.

13:47:56 25 And back on that standing water issue, sir,

13:48:00 1 you -- I think we've already covered this. You would  
13:48:07 2 expect or you would not be surprised by a standing water  
13:48:11 3 issue back in that back part of the Cambridge property  
13:48:14 4 and on the adjoining land, correct?

13:48:17 5 A. That's correct.

13:48:17 6 Q. And tell the jury why you would not be surprised  
13:48:20 7 that there would be a standing water problem there even  
13:48:23 8 if this pipe had never been cut.

13:48:26 9 A. Like I mentioned earlier, when I did look into  
13:48:29 10 the manhole and did see the pipe, there was no question  
13:48:32 11 that there was some obstruction in the pipe. The  
13:48:36 12 buildup of silt and mud over who knows how long a period  
13:48:40 13 of time, which would, in fact, obstruct the flow of  
13:48:43 14 water through the structure. The corner of that lot is  
13:48:45 15 the lowest point of the private property immediately  
13:48:49 16 adjacent to it, and I believe probably one of the lower  
13:48:52 17 points in the subdivision itself. So natural run off  
13:48:56 18 was going to cause water to collect in that corner. If  
13:48:59 19 it can't get through the pipe, it's going to pond.

13:49:02 20 Q. Incidentally, speaking of ponding, you mentioned  
13:49:07 21 you're familiar with the fact the subdivision itself has  
13:49:10 22 a drainage plan?

13:49:11 23 A. Yes.

13:49:11 24 Q. There's a design capacity for any drainage plan,  
13:49:15 25 correct?

13:49:15 1 A. Right.

13:49:16 2 Q. They're not going to design it for a huge  
13:49:18 3 rainfall; they'll design it for some normal rainfall?

13:49:22 4 A. That is correct.

13:49:22 5 Q. So if one has a big rainfall, one is going to  
13:49:27 6 have flooding or ponding in the back of that area you've  
13:49:30 7 talked about, the low spot of the development at 15, 16  
13:49:36 8 lots -- I'm putting a whole bunch of things in there.  
13:49:39 9 Are you agreeing with me so far?

13:49:43 10 A. I'm with you so far.

13:49:44 11 Q. And we've had some substantial rains in '06 and  
13:49:48 12 '07, correct?

13:49:49 13 A. That's correct.

13:49:49 14 Q. Rains that would be far beyond the capacity that  
13:49:52 15 the drainage system at Cambridge would be designed for?

13:49:55 16 A. That's correct.

13:49:56 17 Q. So without question you would expect and assume  
13:49:58 18 that there would be ponding in that area even similar to  
13:50:02 19 what you saw in that one exhibit?

13:50:04 20 A. That could very well be.

13:50:05 21 Q. Okay. And those would be transient after a  
13:50:09 22 little while? Day or two or whatever they -- the water  
13:50:13 23 leaves?

13:50:14 24 A. That's correct.

13:50:23 25 Q. You had nothing to do with the planning or



13:50:31 1 construction of the water project?

13:50:33 2 A. That is correct.

13:50:34 3 Q. You had nothing to do with approving or  
13:50:38 4 disapproving any plans?

13:50:40 5 A. That is correct.

13:50:41 6 Q. You had nothing to do with approving or  
13:50:44 7 disapproving any plans for the development and  
13:50:47 8 construction of Cambridge itself?

13:50:51 9 A. That is correct.

13:50:52 10 Q. But despite that, it is -- people do --  
13:50:57 11 developers and contractors do file plans with the  
13:50:59 12 county?

13:51:00 13 A. They do.

13:51:00 14 Q. And the county expects them to follow those  
13:51:03 15 plans?

13:51:05 16 A. Yes.

13:51:08 17 Q. Now, are you familiar with the drainage plan for  
13:51:11 18 Cambridge? Would you recognize it if you saw it?

13:51:16 19 A. I would now.

13:51:18 20 Q. Because of all this? Well said.

13:51:23 21 Let me show you the drainage plan which is marked  
13:51:26 22 as --

13:51:28 23 MR. ROBON: Mr. Barrett, what Exhibit  
13:51:31 24 Number?

13:51:31 25 MR. BAHRET: F.

13:51:33 1 MR. ROBON: Is that the one you took out of  
13:51:35 2 my book? Because I don't have it.

13:51:41 3 MR. BAHRET: I was an indian giver, Marv.

13:51:44 4 THE COURT: Defendant's Exhibit F?

13:51:47 5 MR. BAHRET: Correct.

13:51:48 6 BY MR. BAHRET:

13:51:48 7 Q. You've seen that before?

13:51:49 8 A. Yes, I have.

13:51:50 9 Q. What does the little legend that I pointed out to  
13:51:54 10 you say?

13:51:54 11 A. The contractor shall clear and grade all the rear  
13:51:57 12 lot lines for pipes, utilities, and drainage.

13:52:01 13 Q. So that means the area -- the last 30 feet of the  
13:52:06 14 development immediately abutting the railroad property,  
13:52:11 15 if they follow that plan, is going to be stripped?

13:52:14 16 A. I wouldn't say that.

13:52:16 17 Q. It means it has to be cleared?

13:52:19 18 A. It doesn't say that. It says for pipes,  
13:52:25 19 utilities, and drainage.

13:52:29 20 Q. Let's put this up.

13:52:30 21 A. It doesn't say for easements.

13:52:35 22 Q. Does it say that the contractor shall clear and  
13:52:39 23 grade all the rear lot lines for pipes, utilities, and  
13:52:44 24 drainage?

13:52:44 25 A. That, it does.

13:52:45 1 Q. Is there a legend on that for what that easement  
13:52:51 2 is?

13:52:51 3 A. That, I don't know. I'd have to look at the plan  
13:52:54 4 again.

13:54:16 5 Q. If you don't see it, that's fine?

13:54:17 6 A. I don't see what you're driving at. I see an  
13:54:20 7 indication that there could be an easement. I see an  
13:54:23 8 indication there could be an easement on this property,  
13:54:26 9 but I don't see it spelled out in any particular width.

13:54:29 10 Q. I'll ask a different witness that then. Thanks.

13:54:32 11 A. Okay.

13:54:33 12 Q. Would you agree, though, that the property was --  
13:54:36 13 the intent of that document is that the property would  
13:54:40 14 need to be cleared all the way to the property line and  
13:54:43 15 mowed?

13:54:44 16 MR. ROBON: Objection. The document intent  
13:54:50 17 is --

13:54:51 18 THE COURT: If he can answer, you can go  
13:54:54 19 ahead.

13:54:55 20 A. I could say that it may have been the intent of  
13:54:58 21 the consulting firm that did the plans. That's a  
13:55:02 22 general note. I've seen it before. Whether it was  
13:55:05 23 actually accomplished, whether the owner told him to do  
13:55:08 24 it or not, I don't know that.

13:55:09 25 Q. That's not what I asked you. I just asked was

13:55:13 1 it intended in that drawing, as you read that drawing in  
13:55:15 2 your capacity as an engineer, that the rear of the lots  
13:55:20 3 in Cambridge were supposed to be cleared, correct?

13:55:21 4 A. No, I can't say that. I know what it says, but I  
13:55:26 5 can't say that that's the intent.

13:55:28 6 Q. All right. Well, at your deposition, again,  
13:55:32 7 when I asked you: "So that would require the property  
13:55:35 8 to be cleared all the way to the property line and  
13:55:39 9 mowed?"

13:55:40 10 Your answer: "That is probably the intent."

13:55:46 11 A. That word "probably," I'll use it again.  
13:55:49 12 Probably. But I can't say that it was.

13:55:51 13 Q. Then also would you expect that they would, in  
13:55:53 14 fact, clear this property on the back?

13:55:58 15 A. That's a fair assumption.

13:56:00 16 Q. And that's because, as you told us on the day of  
13:56:03 17 your deposition, you'd have to do it to put in the pipe  
13:56:10 18 system for their drainage plan?

13:56:13 19 A. A portion of it, yes. All of it, I can't say  
13:56:16 20 that.

13:56:16 21 Q. But that's what you told us then, correct?

13:56:18 22 A. Without the benefit of any numerical values, yes.

13:56:40 23 Q. You've never been a consultant for the City of  
13:56:42 24 Toledo, have you?

13:56:43 25 A. No, sir.

13:56:44 1 Q. And you've never been retained to be a consultant  
13:56:46 2 for Old Granite or Cambridge either?

13:56:48 3 A. No, sir.

13:56:56 4 Q. You haven't been asked -- you never did anything  
13:56:59 5 to form any opinion as to whether any encroachment  
13:57:02 6 occurred?

13:57:02 7 A. No, sir.

13:57:05 8 Q. My guess is, and I think you told us this before,  
13:57:08 9 your office really wouldn't have jurisdiction in that  
13:57:11 10 issue anyway?

13:57:12 11 A. That is correct.

13:57:13 12 Q. So you would -- it's not that you didn't do your  
13:57:16 13 job; it's that isn't part of your job?

13:57:18 14 A. That is correct.

13:57:24 15 Q. Did it appear to you -- if this is repetition,  
13:57:28 16 Mr. Huber, forgive me. This catch basin or manhole,  
13:57:32 17 that was in poor repair; was it not?

13:57:34 18 A. Yes, sir.

13:57:35 19 MR. ROBON: Objection. Asked and answered.

13:57:36 20 THE COURT: It has. And the answer may  
13:57:38 21 stand. Try not to repeat things.

13:57:44 22 MR. BAHRET: I will not. I forgot to cross  
13:57:47 23 it off in my note.

13:57:48 24 BY MR. BAHRET:

13:57:48 25 Q. Your office didn't go out to assure that the

13:57:52 1 plans, including the drainage plan, were complied with,  
13:57:55 2 did you?

13:57:55 3 A. The only extent that my office was at that site  
13:57:58 4 was to insure that any of the infrastructure, including  
13:58:03 5 the road itself, within the public right-of-way was  
13:58:05 6 installed properly.

13:58:07 7 Q. And so if I'm hearing you right, this is not in  
13:58:12 8 the public right-of-way; and therefore, it would not be,  
13:58:15 9 as you see it, it would not be in the jurisdiction of  
13:58:18 10 the Wood County engineer?

13:58:19 11 A. That is correct.

13:58:20 12 Q. Now, the concern -- the meeting was called  
13:58:25 13 because of express concerns from Mr. Laskey to Mr. Alvie  
13:58:31 14 Perkins, the commissioner, about the vegetation issue;  
13:58:34 15 is that right?

13:58:34 16 A. That was the original intent.

13:58:36 17 Q. All right. And so the vegetation had already  
13:58:38 18 been cut?

13:58:40 19 A. No, it had not.

13:58:41 20 Q. It had not. So you were out there before there  
13:58:44 21 was any clearing?

13:58:46 22 A. That is correct.

13:58:47 23 Q. And Mr. Laskey was there expressing concern as to  
13:58:52 24 what they might be doing?

13:58:53 25 A. That's correct.

13:58:54 1 Q. So in your mind there's no problem at all; you  
13:58:56 2 can say affirmatively that Mr. Laskey had notice of this  
13:59:00 3 project?

13:59:02 4 A. Repeat the question, please.

13:59:03 5 Q. You know, in fact, you can prove that Mr. Laskey  
13:59:06 6 and Old Granite knew about this project before it ever  
13:59:10 7 began because you're there having a meeting before --

13:59:13 8 A. That's right.

13:59:17 9 Q. You can still see train tracks from the Cambridge  
13:59:21 10 property when you were there, correct?

13:59:23 11 A. That's correct.

13:59:24 12 Q. You had no problem seeing and hearing a train,  
13:59:28 13 correct?

13:59:29 14 A. That's -- I did not see a train that particular  
13:59:33 15 day.

13:59:33 16 Q. That's not because it's invisible or anything;  
13:59:37 17 it's in your visit one did not go by?

13:59:39 18 A. No.

13:59:39 19 Q. Had one gone by, you feel confident you would  
13:59:43 20 have both seen it and heard it?

13:59:44 21 A. Yes, sir.

13:59:47 22 Q. And this is before any work had been done?

13:59:50 23 A. That is correct.

13:59:57 24 Q. And in that first meeting Mr. McCarthy was there;  
14:00:03 25 that would be Jack Mr. McCarthy, correct?

14:00:05 1 A. Yes, he was.

14:00:06 2 Q. That first meeting is obviously before the  
14:00:08 3 crossover pipe had been cut, correct?

14:00:12 4 A. That's correct.

14:00:12 5 Q. That was before the City even knew the crossover  
14:00:15 6 pipe was there?

14:00:15 7 A. That's correct.

14:00:18 8 Q. And on that occasion, Mr. McCarthy complained  
14:00:22 9 about a water drainage issue in the back corner of the  
14:00:25 10 property?

14:00:26 11 A. I don't recall that statement, no.

14:00:36 12 MR. BAHRET: Could I just hand him his --  
14:00:38 13 refresh his recollection?

14:00:40 14 THE COURT: Yes.

14:00:40 15 BY MR. BAHRET:

14:00:40 16 Q. Let me just show you this page of your  
14:00:43 17 transcript. Does that reviewing that page of your  
14:01:02 18 transcript, does that refresh your recollection?

14:01:05 19 A. A moment please. All right.

14:01:21 20 Q. Refreshed?

14:01:22 21 A. Well, as best as can possibly be done.

14:01:26 22 Q. Now, did Mr. McCarthy complain to you when you  
14:01:30 23 were out there before the project that there -- or maybe  
14:01:34 24 "complain" is the wrong word. It's the word I used in  
14:01:37 25 here. But did he at least mention the water problem



14:01:40 1 with you?

14:01:40 2 A. Probably did. I just don't recall it in that  
14:01:43 3 detail. If I said it there, I must have said it then.

14:01:47 4 Q. It's on that page.

14:01:48 5 A. It's on that page?

14:01:52 6 THE COURT: Can we have for the record what  
14:01:56 7 his answer was at that time?

14:01:59 8 MR. BAHRET: I'm sorry. Do you want me to  
14:02:06 9 read the whole thing to put it in context.

14:02:10 10 THE COURT: Maybe the witness can paraphrase  
14:02:14 11 it. Right now there's nothing before the jury what his  
14:02:16 12 answer was.

14:02:17 13 BY MR. BAHRET:

14:02:17 14 Q. Would you, reviewing all this -- let me get you  
14:02:21 15 the page before that to help you put it in context, if  
14:02:31 16 you need this. Try to paraphrase what that idea is in  
14:02:36 17 the context of whether Mr. McCarthy was mentioning a  
14:02:39 18 concern about water in that meeting with you that took  
14:02:42 19 place before any construction began.

14:03:04 20 A. It appears that we were talking about the pipe  
14:03:07 21 that I had mentioned earlier, one that went under the  
14:03:11 22 old abandoned railroad. I'm trying to get some idea as  
14:03:16 23 to terminology to use.

14:03:22 24 Q. Would it be fair to summarize it as saying before  
14:03:26 25 construction began he mentioned an issue with water at

14:03:29 1 the back corner?

14:03:30 2 A. I'm trying to recall two years ago as to what I  
14:03:34 3 actually said in the field, but Mr. McCarthy probably  
14:03:39 4 did bring up the issue of drainage back there. I do  
14:03:42 5 recall saying -- you know, as I said here, we don't need  
14:03:46 6 to go there because I had no information, no data to  
14:03:51 7 substantiate anything I could have said at that  
14:03:54 8 particular point in time. So in my specific answer to  
14:03:58 9 that question was, I really don't know until I've had a  
14:04:01 10 chance to evaluate the situation.

14:04:03 11 Q. Is that what it says on this page?

14:04:04 12 A. No, it doesn't say that specifically. What I  
14:04:07 13 said in that deposition is --

14:04:11 14 THE COURT: Let's just read a couple lines  
14:04:13 15 of your answer to try to get an idea of what your answer  
14:04:17 16 was. That's all we're trying to get.

14:04:19 17 THE WITNESS: That's what I'm trying to do.  
14:04:22 18 I guess to start off with, "What drainage issues did  
14:04:25 19 they want to address?"

14:04:27 20 "Well, the whole issue of water on the  
14:04:30 21 property here in the back in the low corner right here."

14:04:34 22 And at that particular point in time I think  
14:04:36 23 I pointed to a drawing that showed the corner that we  
14:04:39 24 were making reference to, if I remember that situation.  
14:04:44 25 You have to look at the topographic map to understand

14:04:47 1 what I'm talking about. The topographic map shows how  
14:04:51 2 the land, looking at a plan view, looking down at a  
14:04:54 3 picture, the lines represent different elevations. And  
14:04:57 4 at this particular point in time we were looking at, I  
14:05:00 5 believe, a drainage map or an aerial photograph that  
14:05:03 6 showed that point where that manhole was at we looked at  
14:05:06 7 earlier.

14:05:07 8 "Question: Did they have water issues  
14:05:10 9 there?

14:05:11 10 "They had some water issues down in here."  
14:05:14 11 Down in here being at that particular point.

14:05:18 12 THE COURT: That's enough. That gives us  
14:05:20 13 the gist, I think.

14:05:21 14 THE WITNESS: That's basically it.

14:05:22 15 THE COURT: Thank you.

14:05:25 16 BY MR. BAHRET:

14:05:25 17 Q. And importantly, that line, "Before any  
14:05:28 18 construction"?

14:05:30 19 A. Yes.

14:05:53 20 Q. Would you agree in general that River Road in the  
14:05:57 21 area of this -- I didn't mean to say River Road. The  
14:06:02 22 property near the railroad tracks, the back of Cambridge  
14:06:05 23 generally runs from the Ford Road direction towards THE  
14:06:09 24 Bates Road direction?

14:06:11 25 A. Generally speaking, yes, I would say that.

14:06:13 1 Q. So in general the water from what you saw when  
14:06:17 2 you were out there and from your review of various topos  
14:06:21 3 that you said you had, water's going towards that low  
14:06:25 4 spot?

14:06:25 5 A. That's correct.

14:06:26 6 Q. Towards the area where we see the ponding,  
14:06:29 7 correct?

14:06:31 8 MR. BAHRET: Can you use a word.

14:06:33 9 A. Yes. That's correct.

14:06:34 10 Q. I see you nodding your head, but you've got to  
14:06:37 11 say something.

14:06:38 12 A. Okay.

14:06:58 13 Q. So far as you know, you never pointed out to  
14:07:00 14 anybody the annulet for this crossover drainage pipe,  
14:07:03 15 did you?

14:07:04 16 A. No, I did not.

14:07:09 17 Q. Does cleaning out a ditch, like if one would fill  
14:07:13 18 a ditch then dig it out, is it -- would that actually  
14:07:17 19 improve drainage to dig this ditch out?

14:07:20 20 A. Yes, it does.

14:07:31 21 Q. Would you agree that the Cambridge water removal  
14:07:33 22 plan, drainage plan does not rely upon the railroad  
14:07:38 23 water drainage plan?

14:07:39 24 A. Yes, sir.

14:07:43 25 Q. Would you acknowledge, sir, or do you agree that

14:07:46 1 Mr. McCarthy was rather insistently on you?

14:07:51 2 A. Oh, yes.

14:07:52 3 Q. Was it to the point where you told him to leave  
14:07:55 4 you alone?

14:07:55 5 A. It got to that level.

14:07:59 6 Q. Would you agree that your opinion as cutting that  
14:08:04 7 culvert did not alter the drainage from the subdivision?

14:08:09 8 A. Repeat the question, please.

14:08:11 9 Q. Do you believe that cutting that crossover drain  
14:08:14 10 pipe altered the drainage from the subdivision?

14:08:20 11 MR. ROBON: Your Honor, I'm going to object  
14:08:21 12 to that question. I think it's a misleading, unfair  
14:08:24 13 question.

14:08:24 14 THE COURT: Overruled. He may answer.

14:08:49 15 We're all waiting for each other.

14:08:51 16 If you remember the question, I overruled  
14:08:54 17 the objection. You may answer.

14:08:56 18 THE WITNESS: Thank you. Thank you.

14:08:57 19 A. No, I can't say that. I cannot say that.

14:09:02 20 Q. So you're saying now that you do not have an  
14:09:05 21 opinion at all as to whether cutting the drainage  
14:09:10 22 culvert actually, in fact, altered drainage from the  
14:09:13 23 subdivision?

14:09:14 24 A. I can't say that it did.

14:09:17 25 Q. Did you have an opinion when I took your

14:09:20 1 deposition?

14:09:20 2 A. Oh, probably. I'm sure you're going to show me,  
14:09:25 3 too.

14:09:27 4 Q. Right there. It's the exact same question.  
14:09:33 5 You were asked: "You have no opinion at all as to  
14:09:36 6 whether cutting that drainage, the culvert under the  
14:09:39 7 railroad, actually, in fact, altered drainage from the  
14:09:43 8 subdivision, do you?"

14:09:44 9 And your answer is at line 13: "As far as I'm  
14:09:49 10 concerned, it did not."

14:09:51 11 Do you see that?

14:09:52 12 A. Yes, I did.

14:09:53 13 Q. Was that your opinion back at the time of the  
14:09:56 14 deposition?

14:09:56 15 A. That's my opinion at the time of the deposition.

14:09:58 16 Q. Is it your opinion now?

14:10:01 17 A. I can say yes with qualifications, if I'm allowed  
14:10:06 18 to use that word.

14:10:10 19 Q. Go ahead.

14:10:11 20 A. The subdivision was designed to contain its storm  
14:10:15 21 water solely within the boundary of the subdivision.

14:10:19 22 In other words, all rain water that falls in that  
14:10:22 23 subdivision was directed to a storm drainage system that  
14:10:26 24 directed the water from that subdivision to a storm  
14:10:30 25 drainage system in State Route 65, and carried it to the

14:10:35 1 Maumee River.

14:10:36 2 Water that falls on adjacent property that does  
14:10:39 3 not have a proper outlet could, in fact, then inundate  
14:10:44 4 or cause additional waters to be put on the  
14:10:49 5 subdivision's property, and hence affect the drainage of  
14:10:52 6 the subdivision itself. I hope I got that through okay.

14:11:05 7 Q. Did you complete your answer?

14:11:07 8 A. That's my answer.

14:11:08 9 Q. Sir, let me totally change subjects on you. You  
14:11:11 10 probably wanted me to anyway.

14:11:13 11 A. Sure.

14:11:14 12 Q. When you were out there, the railroad fence was  
14:11:18 13 still intact behind Cambridge; was it not?

14:11:20 14 A. What was left of it? Yes.

14:11:22 15 Q. I mean, you could clearly see a fence line?

14:11:24 16 A. Yes.

14:11:26 17 Q. I'm not saying it was in perfect condition, but  
14:11:29 18 there's a fence line there?

14:11:30 19 A. There was a fence.

14:11:31 20 Q. And you knew it to be a railroad fence?

14:11:33 21 A. Well, now, that, I can't testify to. I know  
14:11:36 22 there was a fence there. That's all that was there.

14:11:38 23 Q. Well, you've seen railroad fences, correct? Do  
14:11:42 24 they typically use the big beams then have some metal  
14:11:46 25 meshing that goes between them?

14:11:48 1 A. That is one kind, yes.

14:11:49 2 Q. And that's what you saw?

14:11:50 3 A. That's what I saw.

14:11:52 4 Q. Now, back to the issue I asked you earlier about  
14:11:56 5 did you express an opinion as to which way the water  
14:11:58 6 would be flowing if it flowed at all? Do you remember  
14:12:02 7 that discussion?

14:12:03 8 A. Uh-huh.

14:12:05 9 THE COURT: That was a yes?

14:12:06 10 THE WITNESS: Yes.

14:12:08 11 THE COURT: Thank you.

14:12:10 12 THE WITNESS: Excuse me.

14:12:15 13 BY MR. BAHRET:

14:12:15 14 Q. Was it your understanding, your initial  
14:12:17 15 impression and belief that the drainage that would occur  
14:12:21 16 would actually go from the railroad tracks towards the  
14:12:25 17 Maumee River?

14:12:26 18 A. That was my first impression, that's correct.

14:12:29 19 Q. Okay. All right. I misunderstood your  
14:12:32 20 testimony earlier then. So the point being when you  
14:12:34 21 were there examining this pipe, the crossover pipe, you  
14:12:39 22 believed if it allowed water to flow at all, at least  
14:12:44 23 your initial impression was that it would be coming from  
14:12:47 24 the railroad onto private property?

14:12:50 25 A. That is correct.



14:12:51 1 Q. And you even said that opinion to Christy  
14:12:55 2 Soncrant and the others that were at this meeting,  
14:12:59 3 correct?

14:13:01 4 A. I don't recall the statement, but more than  
14:13:03 5 likely I did.

14:13:04 6 Q. That's two pages later if you need it.

14:13:08 7 A. I'm sure you're going to point it out to me.

14:13:12 8 Q. Now, having heard from the Wood County engineer,  
14:13:20 9 the City folks having heard from the Wood County  
14:13:23 10 engineer that if this thing is moving water at all, it's  
14:13:27 11 probably making things worse for Cambridge than if it's  
14:13:30 12 not moving water, would it be reasonable for them to  
14:13:33 13 think: Cut the pipe?

14:13:41 14 A. You'd better try that question again. I'm not  
14:13:45 15 sure how to interpret it.

14:13:46 16 Q. All right. You're an engineer, and your job is  
14:13:49 17 for Wood County. And this project or this portion of  
14:13:52 18 this project was in Wood County. You're called out  
14:13:56 19 there to give your opinions on certain subjects. And  
14:13:59 20 you rendered certain opinions?

14:14:01 21 MR. ROBON: Objection to the use of the word  
14:14:03 22 "opinions."

14:14:04 23 THE COURT: Overruled.

14:14:08 24 Q. You had opinions, and you spoke, correct?

14:14:10 25 A. I had an opinion at that point, yes.

14:14:14 1 Q. And the opinion that you rendered at that time  
14:14:16 2 was that this crossover pipe, if it even works, is  
14:14:20 3 making things worse for Cambridge than if it simply was  
14:14:27 4 plugged because the water's going that direction?

14:14:33 5 A. That would be a logical statement to make at this  
14:14:36 6 time. With that opinion still paramount in my mind,  
14:14:43 7 not knowing exactly which way it goes, but that's what I  
14:14:46 8 thought.

14:14:46 9 Q. In hindsight I think you came to a different  
14:14:49 10 opinion?

14:14:49 11 A. That's exactly correct.

14:14:51 12 Q. Just so the jury knows that.

14:14:53 13 But at least as of the time of your meeting with  
14:14:56 14 the City -- because there wasn't a subsequent meeting,  
14:14:58 15 was there? You only met with them one time?

14:15:01 16 A. I was there one time then I met with Christy  
14:15:04 17 about a month later.

14:15:05 18 Q. But the meeting when you're talking about the  
14:15:07 19 pipe with Christy, that was only one meeting?

14:15:09 20 A. That was one meeting.

14:15:11 21 Q. And at that meeting you told Christy, and there  
14:15:13 22 were other people there too, I believe, but you told  
14:15:16 23 them that I think the water is moving towards the  
14:15:19 24 subdivision?

14:15:22 25 A. That was probably a fair statement at that time.

14:15:24 1 Q. In other words, railroad water is getting over  
14:15:26 2 here?

14:15:27 3 A. That's correct.

14:15:29 4 Q. Did you ever call Christy and tell her you had  
14:12:12 5 come to a different opinion?

14:12:12 6 A. No, because it was about a year later that I  
14:12:14 7 finally found out the way it really worked.

14:12:16 8 MR. BAHRET: Okay. Thank you, sir.

14:12:36 9 THE COURT: Any redirect? You may inquire.

14:18:38 10 MR. ROBON: Thank you.

14:18:41 11 - - -

14:18:41 12 RAY HUBER, REDIRECT EXAMINATION

14:18:42 13 BY MR. ROBON:

14:18:42 14 Q. Mr. Huber, when you gave the B & O, which is now  
14:18:47 15 CSX, the plan showing the crossover pipe which is  
14:18:51 16 identified as Exhibit 45, were you aware at that point  
14:18:56 17 in time that the water drained away from the Cambridge  
14:19:01 18 subdivision underneath the railroad track into the  
14:19:05 19 railroad ditch?

14:19:05 20 A. No.

14:19:07 21 Q. When you found out, did you inform Mrs. Soncrant?

14:19:12 22 A. No, I did not. It was too late.

14:19:15 23 Q. It was too late? What should she have done?

14:19:20 24 What should the City have done when they encountered  
14:19:24 25 that pipe?

14:19:25 1 MR. BAHRET: Objection.

14:19:29 2 MR. ROBON: Let me rephrase the question.

14:19:31 3 BY MR. ROBON:

14:19:31 4 Q. Wouldn't the logical thing to do is do a dye test  
14:19:35 5 where you pour a can of dye into the water?

14:19:38 6 MR. BAHRET: I object. This is still his  
14:19:39 7 witness. He can't lead.

14:19:40 8 THE COURT: Let's try one more time.

14:19:47 9 BY MR. ROBON:

14:19:47 10 Q. Would you tell the jury ways that you can test  
14:19:49 11 the flows of water?

14:19:51 12 A. You put dye in the water to determine which  
14:19:53 13 direction it flows.

14:19:56 14 Q. Could the City have done that?

14:20:02 15 A. We do it in the county.

14:20:05 16 Q. Common practice?

14:20:07 17 A. Yes. Yes.

14:20:15 18 Q. And what's the expense of a dye test?

14:20:18 19 A. Minuscule.

14:20:27 20 Q. Wouldn't there typically be an engineering study  
14:20:29 21 done with a dye test and other things to be certain  
14:20:33 22 they're not causing a problem or in particular with a  
14:20:36 23 pipe that's two feet in diameter?

14:20:38 24 MR. BAHRET: Your Honor, I'm not sure  
14:20:39 25 counsel knows how to ask a question that isn't leading.

14:20:42 1 MR. ROBON: I'll rephrase it.

14:20:47 2 BY MR. ROBON:

14:20:47 3 Q. What's the purpose of a drainage study?

14:20:51 4 A. To try to evaluate all drainage structures in the  
14:20:55 5 immediate area of the project.

14:20:56 6 Q. Is that common in the industry?

14:20:58 7 A. Yes, it is.

14:21:04 8 Q. And when you indicated that you're out there and  
14:21:10 9 the land wasn't cleared yet, and you met with Mr.  
14:21:13 10 Perkins and Mr. Laskey, do you remember that?

14:21:16 11 A. Yes.

14:21:16 12 Q. The trees were cut, but they were piled up and  
14:21:20 13 all the brush --

14:21:21 14 MR. BAHRET: Objection.

14:21:22 15 Q. -- was laying around? That's why they called you  
14:21:25 16 out?

14:21:25 17 THE COURT: Well, there's an objection, and  
14:21:28 18 we are leading. A little leading is okay, but a lot of  
14:21:31 19 leading is not.

14:21:32 20 BY MR. ROBON:

14:21:32 21 Q. Mr. Huber, you do recall the time that you went  
14:21:36 22 out there with Alvie Perkins, the county commissioner?

14:21:40 23 A. Yes.

14:21:41 24 Q. When you went to the site, can you describe what  
14:21:44 25 you saw behind Lot 15? And tell us when it was. Was it

14:21:51 1 in May?

14:21:52 2 A. It was May of 2006, two years ago this month.

14:21:56 3 Q. Okay.

14:21:57 4 A. There was a lot of rough vegetation, some trees.

14:22:02 5 I did not count the trees, but there were some oak trees

14:22:05 6 and some other kinds of trees there, a lot of scrub

14:22:10 7 brush, wild grape, wildflower rose, which is a thorny

14:22:14 8 bush growing along there, typical fence row vegetation.

14:22:20 9 Q. And you're sure it was in May?

14:22:25 10 A. This was in May.

14:22:26 11 Q. If I informed you that other witnesses will

14:22:29 12 testify that the clearing took place in April, would

14:22:33 13 your opinion change, or that's still your recollection?

14:22:36 14 A. It would not change a word.

14:22:40 15 Q. Did you see trees on the ground?

14:22:42 16 A. There may have been a few trees laying on the

14:22:45 17 ground. I don't know whose trees they were, though.

14:22:50 18 Q. What did Alvie Perkins indicate to you the

14:22:54 19 purpose of your going out to this property was?

14:22:57 20 A. To visit a friend of his.

14:23:01 21 Q. What was the purpose?

14:23:03 22 A. To look at this property, to -- before

14:23:07 23 construction began, to see if there's anything the

14:23:11 24 county might be able to do. I don't know the real

14:23:14 25 intent. Mr. Perkins simply called me on the phone;

14:23:17 1 said, Ray, can you go with me to see a constituent. I

14:23:21 2 said, Yes, sir, we can.

14:23:22 3 Q. What did you and Mr. Perkins do, if anything?

14:23:25 4 A. Went out; met Mr. McCarthy's son, John McCarthy's

14:23:30 5 son; met Mr. McCarthy; met Mr. Laskey; had a cup of

14:23:35 6 coffee in the family room; looked out the window, saw

14:23:38 7 what I call, quote, "green fence," that is, the

14:23:41 8 vegetation screening that was there. We walked the

14:23:44 9 property afterwards, actually walked up onto the old

14:23:48 10 abandoned railroad bed. This is long before

14:23:50 11 construction got there. And that's when I happened to

14:23:53 12 notice that catch basin that started the whole different

14:23:58 13 scenario that we're here talking about today. It was

14:24:01 14 not the original intent to go looking for drainage.

14:24:04 15 Q. But I got the impression from your testimony that

14:24:08 16 there was some concern about what was going to happen.

14:24:11 17 Did you or Mr. Perkins contact the City or do any -- can

14:24:15 18 you tell the jury what you did?

14:24:17 19 A. Got the hell out of there.

14:24:20 20 THE WITNESS: Excuse me, Your Honor.

14:24:21 21 Q. That's all you did?

14:24:25 22 THE COURT: You didn't get out soon enough,

14:24:29 23 obviously.

14:24:30 24 THE WITNESS: You're right. That's exactly

14:24:31 25 right.

14:24:31 1 A. It was all on private property. I told Mr.

14:24:34 2 Perkins, we have no business being here.

14:24:59 3 Q. Can you tell the jury the cost of an engineering  
14:25:03 4 study or the dye test, drainage study?

14:25:06 5 MR. BAHRET: Objection. Asked and answered.

14:25:09 6 MR. ROBON: Drainage study.

14:25:10 7 THE COURT: I'm sorry, drainage study?

14:25:12 8 MR. BAHRET: I thought he said dye test.

14:25:14 9 MR. ROBON: And/or dye test.

14:25:15 10 THE COURT: Let's just focus it on a  
14:25:18 11 drainage study.

14:25:19 12 BY MR. ROBON:

14:25:19 13 Q. Drainage study, a ballpark range?

14:25:22 14 A. To what extent?

14:25:23 15 Q. Just to find out where that 24-inch diameter pipe  
14:25:27 16 flowed? How long would it take an engineer to figure  
14:25:32 17 it out on-site?

14:25:34 18 A. Well, I'm going to be very vague in that answer  
14:25:37 19 because a lot depends on whether there's water flowing  
14:25:41 20 or not flowing. On a warm summer day, water could be  
14:25:45 21 very stagnant. You could wait there for days for  
14:25:48 22 anything to happen. Put the dye in the water when  
14:25:51 23 there's a rain storm or something going on, it could go  
14:25:54 24 a few hours or an hour or less or a few hours, depends  
14:25:58 25 upon the length of the run. But a consultant is going



14:26:02 1 to charge you on a per-hour basis, and you're probably  
14:26:05 2 going to be looking at anywhere from \$80 to \$100 an hour  
14:26:10 3 to accomplish that feat.

14:26:11 4 Q. Could be done in day, sometimes more?

14:26:13 5 A. It could be done in a day sometimes. I've done  
14:26:17 6 it in less time than that. Other times we've seen it  
14:26:20 7 just sit there; water is not flowing.

14:26:35 8 Q. Even if that manhole was 40, 50, 60, 70 years  
14:26:42 9 old, how long do drains physically sometimes provide  
14:26:49 10 outlets, drainage, like farm tiles?

14:26:57 11 A. Well, here we go again. Difficult question  
14:27:02 12 because there were so many variables. But 20, 30 years  
14:27:07 13 would be something, like a farm tile, four inch, six  
14:27:12 14 inch diameter tile. A bigger tile like this one, 24  
14:27:16 15 inch, half full of silt still may cause the water to  
14:27:22 16 flow.

14:27:22 17 Q. Would you indicate to the jury when this problem  
14:27:26 18 was encountered, was the cure a lot easier simply to put  
14:27:32 19 the 60-some inch pipe underneath it? It would have been  
14:27:39 20 a lot less expensive than curing it today?

14:27:42 21 MR. BAHRET: Objection.

14:27:43 22 THE COURT: Sustained.

14:27:44 23 BY MR. ROBON:

14:27:44 24 Q. Would you indicate how a cure could have been  
14:27:50 25 implemented at the time the drainage pipe was cut?

14:27:56 1 MR. BAHRET: Your Honor, I'm going to  
14:27:57 2 object. This is outside of this man's expertise, and  
14:28:00 3 it's not fair to put these questions to him. He's  
14:28:04 4 never installed a pipe --

14:28:09 5 THE COURT: Well, I'll defer to the witness  
14:28:11 6 on how comfortable he feels to answer the question. If  
14:28:14 7 he feels he can't, he can say so.

14:28:16 8 A. I would go back to my original statement that one  
14:28:19 9 of the possible solutions would have been a pump station  
14:28:23 10 to lift the water over the top of the waterline and  
14:28:27 11 discharge it back into the ditch where we found out that  
14:28:31 12 it actually goes. That would have been a solution, not  
14:28:35 13 the only solution, but one of the solutions.

14:28:37 14 Q. What other solution could there have been at the  
14:28:41 15 time?

14:28:41 16 A. Tried to direct it in a different direction,  
14:28:44 17 maybe tie it into the Cambridge subdivision drainage  
14:28:47 18 system. I don't know if that was even feasible or not.  
14:28:50 19 But that would have been something we would have  
14:28:53 20 probably looked at. We probably would have looked at  
14:28:56 21 running a lane along the railroad out to Bates Road to  
14:28:59 22 see if there was anything out at Bates Road that might  
14:29:02 23 be able to pick it up and direct it to the Maumee River.  
14:29:06 24 There were a number of options that were open. That's  
14:29:08 25 all I can say.

14:29:08 1 Q. To your knowledge, none of those occurred?

14:29:11 2 A. To my knowledge, none of them occurred.

14:29:14 3 MR. ROBON: No further questions.

14:29:15 4 MR. BAHRET: Just very briefly a couple.

14:29:19 5 - - -

14:29:19 6 RAY HUBER, RECROSS-EXAMINATION

14:29:21 7 BY MR. BAHRET:

14:29:21 8 Q. When you were out there in May, and Mr. Robon  
14:29:23 9 said that's after the clearing was done supposedly, you  
14:29:26 10 still saw this green barrier?

14:29:29 11 A. Right.

14:29:31 12 Q. Despite the barrier, you could still see a train  
14:29:34 13 if a train went by?

14:29:36 14 A. Yes, you could.

14:29:37 15 Q. In fact, you walked through that green barrier  
14:29:39 16 back there in the area where you saw the ponding in that  
14:29:42 17 picture?

14:29:43 18 A. That's correct.

14:29:43 19 Q. Right. That same area, you walked through there  
14:29:46 20 and got all scratched up?

14:29:47 21 A. Yep.

14:29:48 22 Q. Including your suit?

14:29:49 23 A. That's right.

14:29:51 24 Q. You haven't been there to see why or how or who  
14:29:55 25 removed all that stuff, have you?

14:29:57 1 A. No.

14:30:02 2 Q. To the manhole, there was -- when you looked into  
14:30:08 3 it, there was no water in it going in or out, correct?

14:30:10 4 A. That's correct.

14:30:11 5 Q. So if one were going to do a water test, one  
14:30:15 6 would find out nothing?

14:30:16 7 A. That's correct.

14:30:20 8 MR. BAHRET: Thank you.

14:30:20 9 THE COURT: You may step down. Thank you.

14:30:24 10 MR. BAHRET: Thank you.

14:30:25 11 THE COURT: I hope your next visit to our  
14:30:27 12 county is enjoyable.

14:30:41 13 Do you need a break?

14:30:45 14 MR. DAVIS: Could I just have a quick break?

14:30:47 15 THE COURT: A quick ten minute break.

14:30:49 16 Remember the rules. Court's in recess.

14:43:50 17 (Recess taken.)

14:44:38 18 (The witness was sworn by the clerk.)

14:44:38 19 THE COURT: Ladies and gentlemen, the  
14:44:39 20 plaintiff has called their next witness. He has been  
14:44:43 21 sworn.

14:44:43 22 - - -

14:44:43 23 NICK NIGH, DIRECT EXAMINATION

14:44:43 24 BY MR. ROBON:

14:44:46 25 Q. Mr. Nigh, would you introduce yourself to the

14:44:48 1 jury. Tell the jury where you live and what you do for  
14:44:50 2 a living.

14:44:51 3 A. My name is Nick Edwin Nigh. I live at 7300  
14:44:55 4 Township Road 136, Findlay, Ohio. I'm a registered  
14:45:00 5 surveyor.

14:45:00 6 Q. Are you employed with a particular company?

14:45:02 7 A. I'm a principal owner of Peterman Associates,  
14:45:05 8 Incorporated.

14:45:06 9 Q. And would you explain to the jury what Peterman &  
14:45:10 10 Associates does?

14:45:13 11 A. My function at Peterman Associates is basically  
14:45:18 12 in the land survey department. We do land surveys,  
14:45:21 13 subdivision plats, also do construction layout staking  
14:45:26 14 for subdivisions and major roadways.

14:45:29 15 Q. And throughout northwest Ohio?

14:45:31 16 A. Throughout all of Ohio.

14:45:33 17 Q. And what's your educational background?

14:45:36 18 A. I spent a year at Ohio State University, and at  
14:45:40 19 that point in time I did quit school and went on to get  
14:45:44 20 my license through a time period thing that was allowed  
14:45:49 21 at that time in the State of Ohio.

14:45:51 22 Q. An apprentice-type thing?

14:45:53 23 A. Yes.

14:45:54 24 Q. How long have you been a registered surveyor?

14:45:56 25 A. Since 1992.

14:45:58 1 Q. Could you give the jury a rough guesstimate of  
14:46:02 2 the number of surveys that you've done in your lifetime?

14:46:05 3 A. Probably somewhere in the neighborhood of 20,000.

14:46:16 4 Q. My understanding is that your firm worked on the  
14:46:21 5 Cambridge subdivision when it was built in 2001?

14:46:26 6 A. That's correct.

14:46:27 7 Q. And when I say worked on, would you explain to  
14:46:31 8 the jury what an engineer and surveyor does when a  
14:46:36 9 subdivision is designed and built?

14:46:38 10 A. Originally we go in with a bare piece of ground.  
14:46:42 11 We'll do what's called a topographic survey and a  
14:46:46 12 boundary survey. At that point in time we establish  
14:46:48 13 the boundary lines of the property to be subdivided.  
14:46:52 14 Then we'll do a topographic survey which shows what the  
14:46:55 15 existing contour or ground elevations are at that time.  
14:47:00 16 That is the information that you use to design the  
14:47:03 17 subdivision by.

14:47:05 18 Q. And you prepare plans for the county, I'm  
14:47:13 19 assuming?

14:47:14 20 A. The engineering department does prepare the plans  
14:47:16 21 for the developer, which is then usually approved and  
14:47:20 22 reviewed by the county or cities, the government  
14:47:22 23 agencies responsible for that.

14:47:25 24 Q. And in this case the plans that your firm drew  
14:47:29 25 were implemented and the construction was completed on

14:47:33 1 the Cambridge subdivision?

14:47:34 2 A. Yes.

14:47:34 3 Q. And you heard nothing more until sometime in the  
14:47:39 4 spring of 2006 about the Cambridge subdivision, correct?

14:47:43 5 A. That's correct.

14:47:44 6 Q. Would you tell the jury what you learned in  
14:47:48 7 spring of 2006, what occurred?

14:47:51 8 A. In the spring of 2006, it was sometime in April,  
14:47:55 9 I got a phone call from John McCarthy. At that point  
14:47:59 10 in time pretty much saying he had a problem, didn't  
14:48:02 11 really go into what the details were, but asked me to  
14:48:05 12 flag up the southeast corner and the southwest corner of  
14:48:10 13 the subdivision.

14:48:11 14 Q. And when you say flag up, what does that mean to  
14:48:13 15 the jury?

14:48:14 16 A. Mark the corners so that they're visible to see  
14:48:18 17 what the boundary limits are.

14:48:20 18 Q. And were there boundary monuments already  
14:48:24 19 existing on the corners?

14:48:26 20 A. Yes.

14:48:27 21 Q. And all you did was put a stick and a flag on  
14:48:30 22 them?

14:48:30 23 A. That's correct.

14:48:31 24 Q. And what could you observe visually looking from  
14:48:36 25 one corner to the other around the rear of the Cambridge

14:48:40 1 subdivision?

14:48:40 2 A. I didn't observe anything. I wasn't there.

14:48:43 3 Q. One of your people did it?

14:48:45 4 A. That's correct.

14:48:46 5 Q. And did they leave notes on what they observed?

14:48:50 6 A. Not at that time. That was pretty much just a  
14:48:53 7 quick in and out, flag two corners up and be gone.

14:48:57 8 Q. What did you then do later?

14:49:01 9 A. Later probably sometime, I'm going to guess  
14:49:06 10 around the end of August, we got another call asking to  
14:49:11 11 go in and locate some trees and roots that had been cut.

14:49:16 12 Q. And did you do that?

14:49:18 13 A. Yes, I sent a crew out. And on that trip,  
14:49:22 14 because of the nature of the problem, I also visited the  
14:49:27 15 site, actually a couple days before the crew did so I  
14:49:31 16 could see what was needed or what they were actually  
14:49:34 17 after.

14:49:35 18 Q. And can you tell me what you observed and what  
14:49:38 19 your crew observed?

14:49:40 20 A. At that point in time there was -- several trees  
14:49:43 21 had been cut down, and you could see a bunch of plant  
14:49:46 22 roots that had been cut off in the ground.

14:49:49 23 Q. Like brambles or brush?

14:49:53 24 A. That's what they're calling them, brambles.

14:49:56 25 Q. Can you describe how thick the stumps were? I



14:50:01 1 mean, were they spread out or --

14:50:02 2 A. The tree stumps themselves were spread out over a  
14:50:07 3 pretty good area. Over 900 feet you might say that  
14:50:10 4 there was seven or eight, maybe a dozen, I can't  
14:50:13 5 remember, something like that, but they were spread out.

14:50:16 6 Q. The trees were spread out?

14:50:19 7 A. That's correct. The bramble roots, they were  
14:50:21 8 all over the place. There were so many that on that  
14:50:24 9 first trip I didn't even tell the survey crew to  
14:50:28 10 possibly locate all of them. I just asked them to  
14:50:31 11 locate areas of them.

14:50:34 12 Q. And were you locating -- what areas were you  
14:50:38 13 locating the brambles, on the railroad property or the  
14:50:41 14 subdivision property?

14:50:44 15 A. They were probably, I would say, on both sides of  
14:50:48 16 the line at that time. We were just -- our primary  
14:50:52 17 concern was what was on the subdivision property.

14:50:55 18 Q. Okay. And did you find that there were cuttings  
14:50:57 19 on the subdivision property?

14:50:59 20 A. Yes.

14:51:02 21 Q. Recent cuttings? I mean, like, within the last  
14:51:06 22 three, four months?

14:51:08 23 MR. BAHRET: Objection.

14:51:10 24 THE COURT: Overruled. You may answer.

14:51:12 25 A. I mean, yeah, you could tell that they had been

14:51:15 1 cut recently. I couldn't tell within three or four  
14:51:18 2 months, but within a year, I would say. They weren't  
14:51:21 3 aged or rotten; let's put that it way.

14:51:24 4 Q. And how far into the Cambridge subdivision did  
14:51:27 5 you find cuttings?

14:51:29 6 A. About six to seven feet, maybe eight feet,  
14:51:33 7 somewhere in there.

14:51:34 8 Q. And could you tell from the cuttings that were  
14:51:38 9 left how big the actual brambles or the brush could have  
14:51:44 10 been?

14:51:44 11 A. I couldn't, no.

14:51:47 12 MR. ROBON: Judge, could I have him come  
14:51:49 13 over here and point the survey out for the jury.

14:51:51 14 THE COURT: Sure.

14:52:02 15 MR. ROBON: Can you all see that?

14:52:07 16 BY MR. ROBON:

14:52:07 17 Q. Would you describe for the jury -- this is lot  
14:52:10 18 15; this is where the house is. Describe for the  
14:52:25 19 jury -- is that working?

14:52:28 20 THE COURT: Yes, but I need to see you for a  
14:52:31 21 moment.

14:52:35 22 (Discussion had off the record.)

14:52:47 23 Q. Would you describe for the jury what this print,  
14:52:50 24 which is Exhibit Number 7, depicts?

14:52:55 25 A. This depicts the south line of the subdivision or

14:52:57 1 the southern area of the subdivision along with what  
14:53:02 2 would be the north rail of the railroad track.

14:53:06 3 MR. BAHRET: Marv, I don't know where else  
14:53:08 4 to put it, but I can tell you half the jury can't see  
14:53:11 5 this, and I can't see it either.

14:53:21 6 MR. ROBON: How about like this?

14:53:26 7 THE WITNESS: Now I can't see it.

14:53:33 8 BY MR. ROBON:

14:53:33 9 Q. You use the little pointer. And tell the jury,  
14:53:37 10 where's the property line on the back of the Cambridge  
14:53:39 11 subdivision?

14:53:40 12 A. This line right here, along with that orange  
14:53:50 13 southern line is the line of the subdivision.

14:53:55 14 Q. And there are markings that are -- I guess that  
14:53:58 15 would be north, the curlycues here?

14:54:04 16 A. Yes, those curlycues represent an area of brushy  
14:54:09 17 area.

14:54:10 18 Q. With the brambles?

14:54:13 19 A. That's part of it, yes. But I think that area  
14:54:16 20 there depicts there may have still been some brush and  
14:54:19 21 so forth remaining. As a matter of fact, you can see  
14:54:23 22 right there. I know it's probably hard for you guys to  
14:54:26 23 read, but it does say "brush area." This area right  
14:54:29 24 here is the area that was mainly disturbed where it was  
14:54:32 25 just wide open.

14:54:33 1 Q. When you say disturbed and wide open, you mean it  
14:54:36 2 was clear cut?

14:54:37 3 A. Yeah. I mean there wasn't anything left in that  
14:54:39 4 area.

14:54:40 5 Q. Except the --

14:54:42 6 A. -- the brambles and the tree stumps.

14:54:44 7 Q. The remnants of the stumps?

14:54:46 8 A. Correct.

14:54:46 9 Q. And how far -- how can the jury tell how far into  
14:54:51 10 the subdivision those encroachments occurred?

14:54:54 11 A. This orange shaded area is the area that we are  
14:54:59 12 talking about the encroachment area.

14:55:02 13 Q. And you said up to six feet?

14:55:04 14 A. Yeah, it's about six or seven feet.

14:55:10 15 THE JUROR: Could you pass that back here?

14:55:13 16 MR. ROBON: Sure.

14:55:22 17 THE JUROR: So the dark black line is the  
14:55:25 18 Cambridge subdivision?

14:55:26 19 THE COURT: Time out. I'm sorry, jurors.

14:55:29 20 THE JUROR: I can't understand this.

14:55:31 21 THE COURT: Well, that's the lawyers' job to  
14:55:32 22 help you understand that. I appreciate that --

14:55:39 23 MR. ROBON: Your Honor, can I show the  
14:55:40 24 second row of the jury since it's light coloring and  
14:55:44 25 it's very difficult to see.

14:55:45 1 THE COURT: Sure. If they haven't seen it,  
14:55:47 2 you can pass it through the jury box without objection.

14:55:51 3 MR. ROBON: Can the witness point out some  
14:55:53 4 things on it?

14:55:54 5 THE COURT: New things or --

14:55:56 6 MR. ROBON: Things he's already talked about  
14:55:59 7 to the second row.

14:56:00 8 THE COURT: Was the second row unable to see  
14:56:02 9 during the presentation?

14:56:05 10 THE JUROR: Yes.

14:56:06 11 THE JUROR: It's very fine.

14:56:07 12 THE COURT: Yes, it is very fine. I  
14:56:09 13 noticed that the very first time it was used.

14:56:12 14 MR. ROBON: Would you stand over here and  
14:56:14 15 point out to the jurors what you were showing here in  
14:56:17 16 the first row?

14:56:23 17 THE JUROR: That black line right there  
14:56:26 18 represents the property line. So that line coming  
14:56:30 19 right through there, that's the south line of the  
14:56:33 20 Cambridge subdivision or the north line of the railroad.  
14:56:36 21 The area that we're talking about that's been disturbed  
14:56:38 22 is that area in orange with all those little dots right  
14:56:41 23 there.

14:56:55 24 BY MR. ROBON:

14:56:56 25 Q. Now, on this diagram, Mr. Nigh, there are some

14:56:59 1 trees that are marked. I assume it says "stump." That  
14:57:04 2 means it was cut?

14:57:06 3 A. There's a symbol right there. It's a tree stump  
14:57:09 4 that we've called -- that's just a typical designation  
14:57:14 5 for a stump by the figure that's been drawn. Along with  
14:57:16 6 that are the sizes.

14:57:19 7 Q. And are the brambles so numerous that you didn't  
14:57:23 8 count them?

14:57:23 9 A. That's correct.

14:57:24 10 Q. And when I say numerous, would you estimate  
14:57:29 11 towards the back of that subdivision how many were cut?

14:57:33 12 A. Thousands.

14:57:33 13 Q. Thousands?

14:57:51 14 MR. ROBON: Take a seat.

14:57:53 15 Q. And when we say thousands, you're referring to  
14:57:57 16 thousands on the Cambridge property?

14:57:59 17 A. Yes.

14:58:01 18 Q. Now, this is Exhibit Number 41. This is a  
14:58:12 19 corner monument on the Cambridge subdivision?

14:58:15 20 A. Yes.

14:58:16 21 Q. And is that the kind of flagging that you talked  
14:58:19 22 about, you told your crew to do the first time?

14:58:21 23 A. Yes.

14:58:31 24 Q. And would you explain -- I need my little  
14:58:38 25 thing -- in the surveying world, what is this thing

14:58:46 1 here? What is this called?

14:58:48 2 A. That's referred to as a concrete monument.

14:58:51 3 That's about the most permanent structure that we can  
14:58:53 4 place that will be preserved over time.

14:58:56 5 Q. And how deep is the concrete?

14:58:58 6 A. Three feet.

14:58:59 7 Q. So it's supposed to last 100 years or longer?

14:59:03 8 A. That's the intent, sure.

14:59:05 9 Q. And when you put that monument there, did you  
14:59:09 10 look at that monument in comparison to where the  
14:59:13 11 railroad fence was?

14:59:14 12 A. Again, I didn't place the monument. So no, not  
14:59:19 13 me personally.

14:59:21 14 Q. When you were out there and you did Exhibit  
14:59:26 15 Number 7, did you come to a conclusion or opinion about  
14:59:32 16 any trespass?

14:59:35 17 A. Well, yeah. I mean, that's what the drawing  
14:59:38 18 indicates, yes.

14:59:40 19 Q. But tell the jury, based upon a reasonable degree  
14:59:42 20 of surveying certainty, what your opinions -- what did  
14:59:46 21 you derive from completing that survey?

14:59:48 22 A. That somebody had cut trees and bramble roots or  
14:59:57 23 brambles down to the roots on that property.

15:00:01 24 Q. And thousands of brambles?

15:00:04 25 A. Yeah.

15:00:09 1 Q. And I'm going to mark Exhibit 92. Is that the  
15:00:21 2 type of cuttings or the cuttings that you actually saw  
15:00:25 3 when you were out at the site?

15:00:27 4 A. Yes. Those would be the tree cuttings that I'm  
15:00:33 5 thinking of. Those probably we would have identified  
15:00:37 6 as trees stumps.

15:00:38 7 Q. And the bigger one in the center is probably  
15:00:42 8 what, eight or ten inches?

15:00:44 9 A. Probably six to eight inches, I'd say.

15:00:48 10 Q. And do you see the red line that is on the bottom  
15:00:56 11 there?

15:00:57 12 A. Yes.

15:00:57 13 Q. Was that superimposed by you or Mr. McCarthy to  
15:01:03 14 show the property line?

15:01:04 15 A. It was not done by me.

15:01:35 16 Q. And if the monument is determined to be closer to  
15:01:49 17 the railroad than the railroad fence, which would be  
15:01:52 18 more accurate for the boundary line, the railroad fence  
15:01:56 19 or your monument?

15:01:58 20 A. Well, the monument would be because that's where  
15:02:01 21 we determined the line to be.

15:02:03 22 Q. So that's the guiding line?

15:02:05 23 A. Yes.

15:02:44 24 Q. I'm going to hand you Plaintiff's Exhibit 8. Is  
15:02:48 25 this an accurate layout that your firm prepared of the



15:02:51 1 Cambridge subdivision?

15:02:57 2 A. It is -- this is a drawing or a drawing that we  
15:03:01 3 would have prepared for sales purposes. I wouldn't  
15:03:08 4 call it an accurate drawing. The reason I say that is  
15:03:10 5 you'll see that there's plus or minus depictions. This  
15:03:14 6 is for sales purposes only.

15:03:16 7 Q. But the configuration --

15:03:17 8 A. The configuration and lot numbers, that does  
15:03:24 9 depict the subdivision.

15:03:59 10 MR. ROBON: No further questions, Your  
15:04:00 11 Honor.

15:04:00 12 THE COURT: Thank you. Cross?

15:04:02 13 MR. BAHRET: Thank you.

15:04:12 14 - - -

15:04:14 15 NICK NIGH, CROSS-EXAMINATION

15:04:15 16 BY MR. BAHRET:

15:04:15 17 Q. Good afternoon, Mr. Nigh.

15:04:20 18 A. Good afternoon.

15:04:27 19 Q. You and I met before in your office down in  
15:04:30 20 Findlay?

15:04:31 21 A. Yes.

15:04:31 22 Q. Have you reviewed your deposition transcript to  
15:04:33 23 get ready here today?

15:04:35 24 A. No, I did not.

15:04:37 25 Q. Obviously you know we talked to you -- where's

15:04:44 1 the date?

15:04:44 2 A. It was in February.

15:04:46 3 Q. February of this year?

15:04:46 4 A. I think it was the 27th.

15:04:48 5 Q. You are correct. The 27th. Obviously you gave  
15:04:51 6 information to the best of your ability accurately --

15:04:53 7 A. That's correct.

15:04:54 8 Q. -- under oath. All right.

15:04:55 9 Let's talk about a few things. Your only  
15:05:05 10 involvement in Cambridge was to supervise a survey crew  
15:05:08 11 after the problem arose?

15:05:09 12 A. That's correct. Yes.

15:05:13 13 Q. You had nothing to do with Cambridge before the  
15:05:15 14 water main was installed?

15:05:16 15 A. No.

15:05:17 16 Q. Your company size, sir, you're smaller now than  
15:05:23 17 you were some years ago?

15:05:24 18 A. We're a little bit smaller, yes.

15:05:27 19 Q. The reason for that -- I'm not implying anything  
15:05:30 20 negative. The reason for that is because the housing  
15:05:34 21 market has a direct effect on your company and the  
15:05:38 22 services you can provide?

15:05:39 23 A. On some of them, yes.

15:05:41 24 Q. And because the real estate market went into the  
15:05:46 25 toilet, basically, your business downsized?

15:05:50 1 A. We had some people leave, and we did not rehire  
15:05:56 2 or replace those positions.

15:05:58 3 Q. And when did -- you know when the market,  
15:06:01 4 basically when it took a header?

15:06:04 5 A. Yes. Sure.

15:06:06 6 Q. When was that?

15:06:06 7 A. I would say we started noticing it in about 2004.

15:06:14 8 Q. And it really went down hard in 2006?

15:06:17 9 A. Yes.

15:06:20 10 Q. In fact, right about the time this project was  
15:06:24 11 done, the water project?

15:06:25 12 A. The water project?

15:06:27 13 Q. Yes.

15:06:27 14 A. Yeah, I'd say.

15:06:29 15 Q. You're familiar with drainage plans?

15:06:34 16 A. Somewhat, yes.

15:06:36 17 Q. And you reviewed, I guess after the fact, the  
15:06:41 18 drainage plan for Cambridge?

15:06:43 19 A. Yes.

15:06:44 20 Q. And you know that the drainage plan -- first of  
15:06:47 21 all, when you prepare those plans, you don't just do it  
15:06:51 22 because you want to charge for your services; you expect  
15:06:54 23 somebody to follow those plans?

15:06:55 24 A. That's correct.

15:06:56 25 Q. And the drainage plan for Cambridge required not

15:07:03 1 just everything going from Ford roadside down to Bates  
15:07:08 2 roadside; it was coming in both directions to each  
15:07:12 3 individual catch basin?

15:07:14 4 A. That's -- I know what you're trying to say.

15:07:17 5 Q. Am I basically right?

15:07:19 6 A. Yeah.

15:07:19 7 Q. Do you know if they actually laid it out that  
15:07:23 8 way?

15:07:23 9 A. I do not know, no.

15:07:25 10 Q. Now, if it were, as somebody else suggested, with  
15:07:28 11 the water just going from one side of the property down  
15:07:31 12 to the other towards lot 15 and 16, that would overload  
15:07:34 13 that catch basin, correct?

15:07:37 14 A. It could, yes.

15:07:39 15 Q. Okay. You had nothing to do with figuring out  
15:07:46 16 any ponding water issue?

15:07:48 17 A. No.

15:07:48 18 Q. You were just the encroachment issue?

15:07:51 19 A. Correct.

15:07:51 20 Q. And at least based on your deposition, you agree  
15:07:56 21 with me that in order to comply with the drainage plan  
15:08:00 22 your company prepared, and Cambridge filed with Wood  
15:08:05 23 County, they would need to remove all of the vegetation  
15:08:08 24 and brambles and bushes at the rear of their lots?

15:08:12 25 A. Right, between the basins and so forth and the

15:08:16 1 soils, yes.

15:08:17 2 Q. So if they complied with the plan, the back of  
15:08:20 3 those properties as it abuts the railroad would be  
15:08:23 4 naked?

15:08:25 5 A. Could be.

15:08:26 6 Q. Well, it should be if they complied with your  
15:08:29 7 plan, correct?

15:08:30 8 A. Sure.

15:08:33 9 Q. And so if that's true, if anybody were to clear  
15:08:38 10 all the vegetation off the railroad right-of-way, now  
15:08:41 11 we've got nothing?

15:08:42 12 A. That's correct.

15:08:45 13 Q. But nobody to complain about it too either,  
15:08:49 14 right?

15:08:49 15 A. I don't understand the question.

15:08:51 16 Q. Well, I don't want to suggest you have a dog in  
15:08:56 17 this fight, and if you don't, say so, but you're not  
15:08:59 18 suggesting that the City of Toledo doesn't have the  
15:09:01 19 right to remove vegetation from the railroad property?

15:09:04 20 A. No, that's correct. I'm not suggesting that at  
15:09:07 21 all.

15:09:07 22 Q. And you're not suggesting that Cambridge has the  
15:09:09 23 right to complain about what happened on railroad  
15:09:12 24 property concerning vegetation?

15:09:14 25 A. I'm not saying they can or can't.

15:09:21 1 Q. Your firm did nothing with the -- to figure out  
15:09:27 2 if the crossover pipe works or doesn't work?

15:09:29 3 A. Not to my knowledge.

15:09:33 4 Q. All right. Let me get to these brambles that  
15:09:37 5 you said you found. And we want to talk a little bit  
15:09:39 6 about how you found them, too. You can't tell us the  
15:09:44 7 age of a bramble or even a tree, could you? Well, I  
15:09:50 8 guess you could count the rings on a tree. Forget  
15:09:53 9 that. You can't tell us the age of a bramble?

15:09:56 10 A. No, I couldn't.

15:09:57 11 Q. And you couldn't tell us the health of brambles  
15:09:59 12 or weeds or the other things?

15:10:01 13 A. No.

15:10:01 14 Q. You couldn't tell us the health of any of the  
15:10:04 15 trees that were cut?

15:10:05 16 A. Not that were cut, no.

15:10:07 17 Q. And did you take note of the health of trees that  
15:10:09 18 were not cut?

15:10:12 19 A. Not really. I mean, I saw other trees, and they  
15:10:16 20 all seemed to have leaves and so forth on them.

15:10:19 21 Q. But did you focus on it at all?

15:10:21 22 A. No, I didn't.

15:10:22 23 Q. And my understanding is based on your work that  
15:10:28 24 you did, you determined that there was absolutely no  
15:10:32 25 encroachment on lots 9, 10, and 11?

15:10:36 1 A. Nine, 10, and 11, did not notice any  
15:10:41 2 encroachment, no.

15:10:41 3 Q. So whatever the condition is, the view, if you  
15:10:44 4 will, on that part of the subdivision, the City of  
15:10:50 5 Toledo didn't cause that?

15:10:53 6 A. I don't really know. I did not see what was  
15:10:57 7 there before, so I'm -- there wasn't anything disturbed  
15:11:02 8 there. There was no --

15:11:03 9 Q. You might have misunderstood me. You were there  
15:11:06 10 to try to document encroachment?

15:11:08 11 A. That's correct.

15:11:09 12 Q. And you determined there was no encroachment?

15:11:11 13 A. In that area I determined there wasn't anything  
15:11:14 14 that I noticed that we needed to locate.

15:11:16 15 Q. Okay. Did anybody show you any pictures of the  
15:11:19 16 property when you were trying to determine what  
15:11:21 17 happened?

15:11:23 18 A. Not at that time, not yet, no.

15:11:26 19 Q. Were you aware of the fact that the appearance of  
15:11:29 20 the subdivision, the back of those lots, at least up at  
15:11:33 21 lots 14, 15, and 16, was radically altered by  
15:11:40 22 Cambridge's folks after this incident and before you saw  
15:11:43 23 it?

15:11:44 24 A. No.

15:11:46 25 Q. Okay. Did you know that McCarthy, a guy named

15:11:51 1 McCarthy -- did you meet with him?

15:11:53 2 A. I know John, yes.

15:11:55 3 Q. Did you know that John McCarthy brought in over  
15:11:59 4 100 -- somewhere between 100 to 140 truckloads, tandem  
15:12:05 5 axle truckloads of dirt then bulldozed it into position?

15:12:10 6 A. No.

15:12:10 7 Q. You would agree with me that sure could alter our  
15:12:13 8 brambles and bushes; could it not?

15:12:15 9 A. Sure.

15:12:15 10 Q. How did you locate where these brambles and  
15:12:18 11 bushes were?

15:12:19 12 A. Are you talking about technique?

15:12:21 13 Q. Yeah. How did you --

15:12:23 14 A. We used a survey instrument, a transit or total  
15:12:27 15 station, it's called today. And with a data collector,  
15:12:31 16 along with what's called a prism rod that reflects  
15:12:36 17 light, and we just individually located clumps or groups  
15:12:41 18 the first time as best we could.

15:12:43 19 Q. Let me interrupt you because we're not -- I'll  
15:12:46 20 take the blame for it.

15:12:48 21 A. That's what I thought.

15:12:49 22 Q. Bad question. I meant, how did you observe  
15:12:53 23 them?

15:12:54 24 A. Okay. There were bramble roots coming out of the  
15:12:58 25 ground.



15:12:58 1 Q. Okay. And did you pull any of these to determine  
15:13:04 2 if they're actually rooted there?

15:13:06 3 A. No.

15:13:07 4 Q. Do you know if the root structures were pushed by  
15:13:11 5 the bulldozer?

15:13:12 6 A. I couldn't tell, no.

15:13:13 7 Q. Certainly makes sense, would it not? That's  
15:13:16 8 possible?

15:13:16 9 A. It's possible.

15:13:17 10 Q. In fact, were there areas, sir, where to see the  
15:13:25 11 brambles, you were actually looking in trenches that  
15:13:28 12 McCarthy dug up for you; were you not?

15:13:31 13 A. I believe that somebody had gone down through  
15:13:34 14 there and dug some trenches or something, if I'm  
15:13:39 15 recalling right. It wasn't like it was undisturbed  
15:13:42 16 soil.

15:13:42 17 Q. Okay. Like -- it's pretty dark. Have you ever  
15:13:54 18 seen this photograph, sir?

15:13:56 19 A. You asked me if I've ever seen it? I think I do  
15:14:03 20 remember seeing this at depositions, but it's not clear  
15:14:06 21 here at all.

15:14:08 22 MR. BAHRET: Exhibit K-11.

15:14:09 23 Q. Do you recognize that as being the back of the  
15:14:11 24 Cambridge development?

15:14:12 25 A. It looks like it, yes.

15:14:14 1 Q. And if I told you that's Mr. McCarthy's folks on  
15:14:18 2 a bulldozer pushing dirt from the railroad property onto  
15:14:21 3 Cambridge, would you believe me?

15:14:25 4 THE COURT: Ask him to assume that, then ask  
15:14:28 5 a question.

15:14:29 6 BY MR. BAHRET:

15:14:29 7 Q. If I ask you to assume that this is Mr.  
15:14:32 8 McCarthy's contractor pushing dirt from the railroad  
15:14:35 9 right-of-way onto the Cambridge subdivision, are you  
15:14:39 10 willing to do that?

15:14:40 11 A. Yes.

15:14:41 12 Q. And would you agree that in the process of doing  
15:14:44 13 that, absolutely everything is covered? You see it in  
15:14:50 14 that photograph?

15:14:53 15 A. You know what, I can't see anything.

15:14:56 16 Q. Let me show you the original.

15:14:57 17 A. There's a lot of glare.

15:15:00 18 Q. It's much easier to see?

15:15:02 19 A. Yes.

15:15:03 20 Q. And so basically all the evidence is gone, right,  
15:15:07 21 of the area where you were looking for brambles?

15:15:13 22 A. Yes.

15:15:14 23 MR. BAHRET: Can I show this to the jury,  
15:15:16 24 Your Honor?

15:15:18 25 THE COURT: Yes.

15:15:28 1 Q. Did you do anything to determine if the dirt  
15:15:31 2 containing the remains of the brambles had been moved  
15:15:34 3 from one location to another?

15:15:41 4 A. You mean, like, hauled in from outside or pushed?

15:15:45 5 Q. Pushed five feet.

15:15:46 6 A. Not really, no.

15:15:48 7 Q. You would agree that the evidence would show the  
15:15:51 8 railroad fence, what's left of it, leaning in towards  
15:15:56 9 Cambridge?

15:15:56 10 A. There was some fence remains pushed in, yes.

15:16:00 11 Q. And whatever fence was remaining was leaning in,  
15:16:03 12 correct?

15:16:04 13 A. That's correct, yes.

15:16:05 14 Q. Do you know if that was from being bulldozed by  
15:16:09 15 McCarthy and his boys?

15:16:10 16 A. I do not know.

15:16:11 17 Q. Could a bulldozer move a railroad fence?

15:16:15 18 A. Easily.

15:16:16 19 Q. Let's talk about the railroad fence. Are there  
15:16:24 20 different ways to survey, first of all?

15:16:26 21 A. Yes.

15:16:26 22 Q. Is it common for surveyors to disagree with one  
15:16:30 23 another?

15:16:31 24 A. More so than we'd like to say.

15:16:33 25 Q. And that's because surveying, it's an art, and I

15:16:40 1 don't want to say an inexact science; I'm looking for  
15:16:43 2 the words.

15:16:44 3 A. Different theories.

15:16:45 4 Q. Thank you. And it doesn't mean that anybody is  
15:16:51 5 bad. It's just there can be honest differences of  
15:16:54 6 opinion as to the location of a survey line?

15:16:58 7 A. Yes.

15:16:59 8 Q. And everybody complying with all reasonable  
15:17:05 9 standards?

15:17:05 10 A. That's correct. Yes.

15:17:09 11 Q. And in this case, there may be such a  
15:17:11 12 disagreement?

15:17:15 13 MR. ROBON: Objection. There's no evidence  
15:17:16 14 of it, Your Honor.

15:17:18 15 THE COURT: Are you aware of a disagreement?

15:17:21 16 MR. BAHRET: Let me just strike that.

15:17:23 17 BY MR. BAHRET:

15:17:23 18 Q. Do you know after the fact, after the fact your  
15:17:25 19 company did a survey, and the City did a survey. I  
15:17:29 20 think you're aware of that, right?

15:17:31 21 A. I wasn't aware the City did a survey.

15:17:33 22 Q. Are you aware of the fact the survey stakes in  
15:17:35 23 many places are literally side by side?

15:17:38 24 A. No.

15:17:38 25 Q. Okay. Did you see any survey stakes when you

15:17:42 1 were there?

15:17:43 2 A. No. Not when I was there.

15:17:50 3 Q. The jury will hear witnesses say, and I'm going  
15:17:53 4 ask you to assume the truth of this, that markings were  
15:17:58 5 still evident in trees and on lathes placed on the  
15:18:04 6 ground after Vermillion cleared the land. Can you  
15:18:08 7 assume that for me?

15:18:09 8 A. I know that we set some in there too after  
15:18:11 9 Vermillion cleared the land.

15:18:13 10 Q. No, you weren't even there until long after  
15:18:16 11 Vermillion cleared the land?

15:18:18 12 A. That's correct.

15:18:18 13 Q. I'm talking about ten minutes after they're done,  
15:18:21 14 there's still stuff there.

15:18:22 15 A. Okay.

15:18:23 16 Q. That's what I want you to assume.

15:18:25 17 A. Okay.

15:18:25 18 Q. Do you know who got rid of all those markings?

15:18:30 19 A. I have no idea.

15:18:31 20 Q. But they were gone when you were there?

15:18:32 21 A. That's correct.

15:18:33 22 Q. In fact, you didn't even see any evidence in the  
15:18:37 23 trees that were remaining of markings?

15:18:39 24 A. No.

15:18:40 25 Q. Is it common when going through a big project

15:18:43 1 like this to -- I mean, you don't look for every survey  
15:18:49 2 monument, do you, when you're on a water main project?

15:18:52 3 A. Not every one, no.

15:18:53 4 Q. And in fact, is it common to give credibility or  
15:18:59 5 historical reference to various markings?

15:19:02 6 A. Sure. Yes.

15:19:03 7 Q. And a railroad fence is one of those things that  
15:19:06 8 is common in your industry to give credibility and honor  
15:19:10 9 to it?

15:19:11 10 A. You could, yes.

15:19:12 11 Q. By that what you mean is if we're doing a big  
15:19:15 12 water main project, I'm not trying to specifically  
15:19:18 13 locate the corner of a subdivision, I'm putting the  
15:19:21 14 water main in now. It would be a very common and  
15:19:25 15 accepted practice to just stay on this side of the  
15:19:29 16 railroad fence?

15:19:30 17 A. I would -- yes, I would agree with that.

15:19:32 18 Q. And what you saw is that that's what happened,  
15:19:38 19 correct?

15:19:39 20 MR. ROBON: Objection.

15:19:42 21 THE COURT: He may answer.

15:19:43 22 A. That --

15:19:44 23 Q. Do you want me to define that a little bit better  
15:19:47 24 for you?

15:19:48 25 A. Yes.

15:19:48 1 Q. Anytime you don't follow one of my questions,  
15:19:51 2 you're not going to insult me if you tell me, Bahret,  
15:19:55 3 you didn't get it clear.

15:19:57 4 From the evidence you saw, the clearing that had  
15:20:01 5 been done was on the railroad side of the fence?

15:20:07 6 A. It was on both sides.

15:20:08 7 Q. Both sides of the railroad fence?

15:20:10 8 A. Yes.

15:20:27 9 Q. Do you recall being asked that at deposition?

15:20:29 10 A. No, I don't.

15:20:30 11 Q. I don't know if this will show it because I only  
15:20:33 12 got the condensed version here.

15:20:38 13 Page 34 of your transcript. There's the  
15:20:47 14 question. It begins at the bottom of 33. Can you see  
15:20:50 15 it there?

15:20:51 16 A. Yes.

15:20:51 17 Q. Can you read it? I mean, are you able to read  
15:20:54 18 it?

15:20:54 19 THE COURT: Why don't you read the question  
15:20:55 20 and answer.

15:20:57 21 Q. I was just making sure he could follow along.

15:21:00 22 "Question: Would you agree at least in that  
15:21:05 23 picture, that's the one where you're claiming  
15:21:07 24 encroachment?"

15:21:08 25 A. Can you tell me what line we're on?

15:21:10 1 Q. Go to 33. The last line.

15:21:14 2 "Would you agree at least in that picture,  
15:21:17 3 obviously no clearing of brush or trees was done on the  
15:21:20 4 wrong side of the railroad fence?"

15:21:23 5 Do you see that?

15:21:24 6 A. No, I don't. I'm not following you.

15:21:56 7 (Discussion had off the record.)

15:22:00 8 BY MR. BAHRET:

15:22:01 9 Q. Can you read it now?

15:22:02 10 A. Yes.

15:22:02 11 Q. "Would you agree at least in that picture,  
15:22:05 12 obviously no clearing of brush or trees was done on the  
15:22:08 13 wrong side of the railroad fence?"

15:22:10 14 And you say, "yes."

15:22:12 15 A. Okay.

15:22:13 16 Q. Then the next question: "Did you see any evidence  
15:22:16 17 that there was any clearing of brush, brambles or trees  
15:22:21 18 on the wrong side of the railroad fence?"

15:22:24 19 And what did you say, sir?

15:22:25 20 A. "Of the fence, no."

15:22:27 21 Q. Okay. And so you would take that question to  
15:22:31 22 mean -- I mean, you knew I wanted to know if there's  
15:22:35 23 evidence of going on the wrong side of the fence to  
15:22:37 24 clear anything?

15:22:38 25 A. I agree with that. Where I could physically see



15:22:42 1 the fence, yeah, there was not any clearing on the other  
15:22:45 2 side of that.

15:22:46 3 Q. All right. And incidentally -- I think you may  
15:22:49 4 have already answered this. You don't know if the  
15:22:52 5 fence was literally pushed one or more feet away?

15:22:55 6 A. I have no idea. I only saw a very little bit of  
15:23:01 7 fence that was remaining. There was a little bit of  
15:23:04 8 fence that was pushed over, but there were several  
15:23:06 9 hundred feet in there where I never saw any fence at  
15:23:09 10 all.

15:23:13 11 Q. Well, let's take a look at a couple of these.  
15:23:20 12 Exhibit A13. Can you make that out?

15:23:32 13 A. Yes. Yeah.

15:23:34 14 Q. Would you agree that's several pieces of railroad  
15:23:38 15 fence?

15:23:38 16 A. Yes.

15:23:39 17 Q. And this is in an area not disturbed by  
15:23:43 18 McCarthy's crew?

15:23:43 19 A. Okay.

15:23:44 20 Q. Do you see that?

15:23:45 21 A. Yes.

15:23:45 22 Q. The area where you didn't see railroad fence, as  
15:23:48 23 evidenced here with a whole series of fence posts, is in  
15:23:53 24 the area where a gazillion tons of dirt were put there  
15:23:57 25 and a bulldozer pushed --

15:23:59 1 A. That could be, yes.

15:24:07 2 Q. Nobody ever told you that the fence that was  
15:24:10 3 obliterated by McCarthy wasn't just like as shown in  
15:24:15 4 Exhibit A13?

15:24:16 5 A. That's right.

15:24:18 6 Q. And assuming that fence was there, it would be an  
15:24:22 7 acceptable technique to honor that fence and cut down  
15:24:27 8 what's on the railroad side of the fence and leave alone  
15:24:31 9 the stuff on the development side of the fence?

15:24:33 10 MR. ROBON: Objection.

15:24:38 11 THE COURT: One second, please.

15:24:44 12 He may answer.

15:24:47 13 A. I'm not going to say it would be an acceptable  
15:24:52 14 practice, but I'd say it is a practice. Me, as a  
15:24:57 15 surveyor personally, I probably wouldn't go in there and  
15:25:01 16 just clear up to the fence if I wasn't sure that was the  
15:25:04 17 exact line. However, a contractor may.

15:25:08 18 Q. Now I've got to fence with you.

15:25:11 19 THE COURT: No pun intended.

15:25:20 20 Q. It's important to me, sir, that word "accepted."

15:25:25 21 A. Okay.

15:25:32 22 Q. Can you read it?

15:25:33 23 A. Yep.

15:25:33 24 Q. Do you see where I'm pointing?

15:25:35 25 A. Yes.

15:25:36 1 Q. Now, the question is: "Is that an accepted  
15:25:40 2 method?" All right?

15:25:42 3 A. Yes.

15:25:42 4 Q. So what I'm trying to get at is that word  
15:25:45 5 "accepted."

15:25:45 6 A. Right.

15:25:46 7 Q. What was your answer?

15:25:47 8 A. It's "Yes. It is accepted." But sometimes  
15:25:50 9 it's not. I mean, I understand what you're saying, but  
15:25:56 10 there are other ways of establishing the right-of-way  
15:25:59 11 besides just the fence.

15:26:02 12 Q. I'm not arguing that point. I'm just trying to  
15:26:05 13 find out this method.

15:26:06 14 A. It is sometimes accepted, yes.

15:26:08 15 Q. So if a survey crew went down there and gave  
15:26:12 16 honor and credibility to the railroad fence for three  
15:26:15 17 miles, you wouldn't say: Wow, are they crazy?

15:26:20 18 A. Not unless it was, like, five or six feet off.

15:26:24 19 Q. And you don't have any evidence that it was five  
15:26:27 20 or six feet off?

15:26:28 21 A. No, I do not.

15:26:30 22 Q. And the area -- where did that map go that you  
15:26:36 23 did? What was it, Exhibit 7?

15:26:48 24 (Discussion had off the record.)

15:26:54 25 Q. This area where you're showing disturbed area --

15:26:58 1 A. Yes.

15:26:58 2 Q. -- that's the area where McCarthy brought the  
15:27:02 3 dirt in; is that right?

15:27:05 4 A. That's the area that we located. You keep  
15:27:08 5 talking to me about where McCarthy brought the dirt in.  
15:27:11 6 I don't know that he brought the dirt in.

15:27:13 7 Q. If I ask you to assume that the dirt -- well, you  
15:27:18 8 saw the bulldozer picture, right?

15:27:20 9 A. Right. But I don't know whose bulldozer that is  
15:27:24 10 either other than what you're telling me.

15:27:27 11 Q. Okay. Well, look at A8. Is this a picture  
15:27:44 12 you've ever seen before? Probably not.

15:27:46 13 A. Might have saw it at deposition, but I'm not  
15:27:49 14 sure. I remember seeing some pictures with pipe.

15:27:51 15 Q. And you recognize that -- I mean, would you  
15:27:58 16 accept as true if I asked you to assume that's the water  
15:28:01 17 main pipe?

15:28:01 18 A. Yes.

15:28:02 19 Q. And you see some fencing there?

15:28:07 20 A. The construction fence?

15:28:08 21 Q. Yes.

15:28:08 22 A. Yes.

15:28:09 23 Q. And are there any marks in this as far as there's  
15:28:12 24 one faint one down there, that machine, I think, showing  
15:28:15 25 any kind of survey line? If you don't see any just --

15:28:21 1 A. I don't see it.

15:28:21 2 Q. Would you agree that there's no brambles or brush  
15:28:27 3 or anything even inward of that massive tree?

15:28:33 4 A. I would agree with that.

15:28:34 5 Q. Do you have any idea who cut that stuff down?

15:28:37 6 A. No idea.

15:28:42 7 Q. And you see all that dirt in this picture?

15:28:45 8 A. Yes.

15:28:46 9 Q. Most of that dirt on the right of that pipe is on  
15:28:50 10 Cambridge property; is it not?

15:29:00 11 A. I don't really know where Cambridge property line  
15:29:03 12 is relative in that picture. I mean, I see some  
15:29:06 13 construction fence. Most of it's on the other side of  
15:29:09 14 the construction fence.

15:29:10 15 Q. Sir, if you were called upon -- and believe me,  
15:29:13 16 I'm not saying this is any of your fault, so don't get  
15:29:16 17 offended at my question. But if you are getting called  
15:29:20 18 upon to answer a question as to was there an  
15:29:24 19 encroachment, would you prefer to see undisturbed land?

15:29:33 20 A. I guess it would depend on what the encroachment  
15:29:36 21 is, but yes.

15:29:37 22 Q. Well, in this very case.

15:29:38 23 A. In this case, yes, I would prefer to see  
15:29:41 24 undisturbed.

15:29:42 25 Q. And the day after the clearing took place, if you

15:29:45 1 had been called by McCarthy or anybody else, and they  
15:29:51 2 said, we really want to know if there's been an  
15:29:54 3 encroachment here, the first thing you would have said  
15:29:57 4 is: Don't touch a thing; right?

15:29:58 5 A. I mean, that's the way I would prefer it, yes.

15:30:01 6 Q. I mean, if they said, come on up in August, five  
15:30:05 7 months afterwards or four months afterwards, and after  
15:30:09 8 we dump, you know, thousands and thousands of tons of  
15:30:12 9 dirt and bulldoze it, you would have probably said  
15:30:17 10 that's not a good idea?

15:30:17 11 A. I would have said, I'll do the best I can do.

15:30:21 12 Q. Okay. How many times were you at the property  
15:30:33 13 after the fact personally?

15:30:35 14 A. I've been there three times. I was there twice,  
15:30:39 15 and then I did go once after depositions to look at it  
15:30:42 16 again.

15:30:43 17 Q. Did you learn anything at deposition -- excuse  
15:30:46 18 me, at your visit post-deposition that affected your  
15:30:49 19 opinions in any way?

15:30:50 20 A. No, not really.

15:30:51 21 Q. You could just tell from the questions that were  
15:30:54 22 being asked, it piqued your curiosity?

15:30:58 23 A. Yeah, and I just wanted to see the condition of  
15:31:02 24 the site at that time. And it was in much better shape  
15:31:05 25 than when we were there.

15:31:07 1 Q. All right. Did Mr. McCarthy or Mr. Laskey or  
15:31:15 2 anybody else tell you even after clearing was done there  
15:31:18 3 was still any kind of a green barrier?

15:31:25 4 A. No.

15:31:25 5 Q. Did you know clearing was in April? I think you  
15:31:28 6 said you did.

15:31:28 7 A. That's when I was called. I don't know when the  
15:31:31 8 clearing actually occurred.

15:31:33 9 Q. Let me rephrase, and you're correct. It  
15:31:36 10 obviously had to have taken place before you were  
15:31:38 11 called.

15:31:39 12 A. That's correct.

15:31:39 13 Q. So we know it was April at the latest?

15:31:42 14 A. That's right.

15:31:43 15 Q. And we know that Mr. Huber was there in May, or  
15:31:49 16 maybe you don't know that.

15:31:50 17 A. I don't know that.

15:31:51 18 Q. Okay. Mr. Huber testified that when he walked  
15:31:57 19 behind lot 15, he tore his clothes up and got scratched  
15:32:03 20 walking through a four-foot barrier of brambles.

15:32:09 21 MR. ROBON: Your Honor, I don't recall that  
15:32:10 22 testimony.

15:32:12 23 THE COURT: Well, if it's not exact, it's an  
15:32:14 24 approximation of his testimony that he walked through  
15:32:19 25 brambles and it cut his suit, as I recall.

15:32:24 1 MR. BAHRET: Right. And he estimated the  
15:32:26 2 depth at about four feet.

15:32:30 3 BY MR. BAHRET:

15:32:30 4 Q. Why are there no brambles visible, if you know,  
15:32:34 5 in A12 behind lot 15?

15:32:43 6 THE COURT: The date that photo was taken,  
15:32:46 7 do you know?

15:32:48 8 MR. BAHRET: We will get that from one of  
15:32:49 9 the Ric-man witnesses. Ric-man took these photos when  
15:32:53 10 he saw McCarthy doing his thing.

15:32:55 11 A. I don't know why there weren't any brambles  
15:32:59 12 there. But I think if you look at my survey, there is  
15:33:02 13 an area clear at the southeast corner of the subdivision  
15:33:05 14 that was not disturbed, the southeast property corner.

15:33:11 15 Q. Let me get my compass directions. Lot nine.

15:33:15 16 A. No, 15, clear at the southeast.

15:33:18 17 THE COURT: 16.

15:33:19 18 A. It is 16 if it's right at the corner. At the  
15:33:24 19 southeast corner. That might be another lot number.  
15:33:27 20 I'm not sure.

15:33:27 21 Q. Let me see if I can get that picture. In fact,  
15:33:33 22 that's the one that shows the railroad fence right  
15:33:36 23 near --

15:33:37 24 A. Right there at that monument. That's correct.

15:33:39 25 Q. So that's an area where the fence is leaning in.



15:33:42 1 Had it been standing up, it would basically be at that  
15:33:46 2 monument?

15:33:47 3 A. Probably pretty close.

15:33:48 4 Q. In that area you didn't see any evidence that  
15:33:50 5 they cut on the other side of the monument or the fence?

15:33:53 6 A. No. That's correct.

15:33:59 7 Q. I don't know what's with my pictures; they don't  
15:34:02 8 show it very well on the ELMO.

15:34:04 9 A. There's glare coming off.

15:34:06 10 THE COURT: We're trying to get somebody in  
15:34:09 11 to help with that. I'm not sure whether it's the  
15:34:12 12 photos or what.

15:34:13 13 BY MR. BAHRET:

15:34:14 14 Q. Sir, you were asked a question at deposition, and  
15:34:16 15 I don't really remember how we qualified this, but you  
15:34:19 16 know what a hydro-axe is, correct?

15:34:21 17 A. We talked about some cutting equipment, that's  
15:34:25 18 correct.

15:34:25 19 Q. You're familiar with that? You've been out on  
15:34:28 20 job sites and so forth?

15:34:29 21 A. I have seen some, yes.

15:34:31 22 Q. All right. And you know that a hydro-axe does  
15:34:34 23 not pull things out of the ground?

15:34:36 24 A. Not the ones that I'm familiar with; that's  
15:34:40 25 correct.

15:34:40 1 Q. They cut, and if there's a bramble, it's not  
15:34:44 2 going to pull five feet away from another bramble; it  
15:34:48 3 just cuts over here?

15:34:49 4 A. I mean, yes.

15:34:59 5 MR. BAHRET: Okay. Thank you.

15:35:01 6 THE COURT: Anything further?

15:35:03 7 MR. ROBON: Yes, Your Honor.

15:35:05 8 - - -

15:35:05 9 NICK NIGH, REDIRECT EXAMINATION

15:35:06 10 BY MR. ROBON:

15:35:06 11 Q. Several questions, Mr. Nigh. When Mr. Bahret  
15:35:09 12 indicated the little notation on a drawing that's  
15:35:13 13 submitted to the county for utilities or drainage, and  
15:35:19 14 there's an easement, let's say, reserved for five or ten  
15:35:24 15 feet for an electrical line or a gas line or  
15:35:29 16 Cable-vision, that's just an easement; is it not. It  
15:35:34 17 doesn't mean that property has to be cut or cleared?

15:35:37 18 MR. BAHRET: Objection.

15:35:38 19 MR. ROBON: I'll rephrase the question.

15:35:38 20 BY MR. ROBON:

15:35:40 21 Q. Tell us what your experience is in easement areas  
15:35:44 22 with regard to clearing of the property in the rear of a  
15:35:51 23 residential subdivision.

15:35:52 24 A. There's -- most subdivision plat requirements  
15:35:56 25 require a survey -- or an easement around the perimeter

15:36:00 1 of the subdivision. That gives them the ability to put  
15:36:03 2 in all sorts of utilities. It might be telephone; it  
15:36:06 3 might be electric; it might be storm drain; it might be  
15:36:10 4 sanitary sewers or water lines. That easement is in  
15:36:13 5 place to run those utilities. That is all the easement  
15:36:18 6 is for. It doesn't mean you have to clear it all. It  
15:36:21 7 doesn't mean you can't clear it all. The easement is  
15:36:27 8 specifically there for the utilities.

15:36:29 9 Q. Isn't it true, for example, when you have  
15:36:30 10 underground wiring, you can actually draw a line around  
15:36:34 11 the trees so the trees aren't cut down by the utility  
15:36:38 12 company?

15:36:38 13 A. Sure.

15:36:39 14 MR. BAHRET: Your Honor, could we ask Mr.  
15:36:40 15 Robon to at least try once during the trial for a  
15:36:43 16 question that isn't leading.

15:36:44 17 THE COURT: Well, let's make an objection  
15:36:46 18 without the speeches, please.

15:36:48 19 MR. BAHRET: I'm sorry. Objection.

15:36:50 20 THE COURT: Sustained. But we'll let that  
15:36:52 21 answer stand.

15:36:54 22 MR. ROBON: Thank you.

15:36:58 23 MR. BAHRET: Because of my speaking?

15:37:00 24 THE COURT: To move things along.

15:37:02 25 BY MR. ROBON:

15:37:03 1 Q. When you identified the thousands of brambles on  
15:37:06 2 your survey, can you tell the jury the condition of the  
15:37:10 3 brambles? I mean, were they -- was there mud on them?  
15:37:16 4 Were they just cut? Could you tell if it was natural  
15:37:19 5 terrain?

15:37:22 6 A. I wouldn't say it was natural terrain. I really  
15:37:26 7 couldn't tell. I mean, there was -- they were in real  
15:37:33 8 rough shape. Obviously they were cut. I can't tell  
15:37:36 9 whether they were cut by a hydro-axe or they were cut by  
15:37:39 10 a backhoe. I really don't know. But obviously they'd  
15:37:44 11 been disturbed at some point in time.

15:37:46 12 Q. Were they fairly in alignment, in a row, straight  
15:37:52 13 line?

15:37:53 14 A. Most of the brambles that we located were in a  
15:37:57 15 fairly straight line. And when I say fairly straight,  
15:37:59 16 I mean, I don't want you to think it's a string line or  
15:38:02 17 anything like that, but probably within a couple of  
15:38:05 18 feet, maybe weaving back and forth a little bit.

15:38:08 19 Q. So if I would stand here in front of this jury  
15:38:10 20 counter, and this is the property line, the brambles may  
15:38:15 21 have been six feet into the property, but they were  
15:38:19 22 pretty much in alignment?

15:38:21 23 A. That's --

15:38:21 24 Q. Weaving in and out little bit?

15:38:24 25 A. Yes.

15:38:28 1 Q. The tree stumps that you noted on your survey,  
15:38:32 2 did you see any evidence of movement of any of those  
15:38:35 3 tree stumps?

15:38:37 4 A. No, they were still in the ground.

15:38:39 5 Q. And it looked like in their original position?

15:38:42 6 A. Yes.

15:38:51 7 Q. And the surveying monuments that you put in were  
15:38:55 8 in there before the clearing of the land, correct?

15:38:57 9 A. They were placed sometime in 2001, probably, so  
15:39:02 10 yes.

15:39:03 11 Q. Tell me as an engineer -- I'm sorry, as a  
15:39:08 12 surveyor, if you were surveying a railroad property, and  
15:39:14 13 there was a relatively new subdivision abutting it, give  
15:39:21 14 us your opinion as to whether or not the surveyor would  
15:39:25 15 know if there were corner monuments?

15:39:28 16 A. He wouldn't necessarily know. He might think so,  
15:39:36 17 but really when we're -- I do construction layout  
15:39:41 18 staking also. We really refer to the plans most of the  
15:39:45 19 time. I mean, what monumentation is shown on the plans  
15:39:49 20 is usually what we use in determining locations of  
15:39:55 21 waterlines.

15:40:00 22 Q. The monuments that your firm installed in 2001,  
15:40:04 23 are they reflected anywhere on the construction drawings  
15:40:09 24 in Wood County?

15:40:10 25 A. On the Cambridge --

15:40:13 1 Q. Yes.

15:40:14 2 A. Yes, they are.

15:40:15 3 Q. And are the records then -- tell us of the  
15:40:19 4 availability of records in the county.

15:40:23 5 A. All subdivision plats are recorded in the sub --  
15:40:26 6 or actually, the county recorder's office, depending on  
15:40:30 7 which county you're in. All subdivision plats are  
15:40:33 8 readily available to the public.

15:40:35 9 Q. And as Mr. Bahret suggested, the City surveyors  
15:40:39 10 just looked at the railroad fence. If that's what they  
15:40:43 11 were doing, was there any reason for a survey? They  
15:40:46 12 were just marking where the railroad fence was?

15:40:50 13 A. If they're just marking where the railroad fence  
15:40:52 14 is?

15:40:53 15 Q. Right. Anybody could have done that?

15:40:55 16 A. Exactly.

15:41:09 17 Q. Of the thousands of brambles that you saw, that  
15:41:12 18 you depicted on Exhibit Number 7, the survey drawing, do  
15:41:22 19 you believe that any of those brambles were moved?

15:41:25 20 MR. BAHRET: Objection. He'd have no  
15:41:28 21 foundation to know.

15:41:28 22 THE COURT: I sustain that.

15:41:30 23 MR. ROBON: I'll rephrase the question.

15:41:30 24 BY MR. ROBON:

15:41:32 25 Q. Was there any evidence that there was a false

15:41:35 1 impression given to you as a surveyor to perpetrate a  
15:41:41 2 fraud on the City of Toledo, which is what Mr. Bahret  
15:41:44 3 may be suggesting?

15:41:46 4 MR. BAHRET: Your Honor, I object and move  
15:41:47 5 to strike.

15:41:48 6 THE COURT: I'm going to -- take a breath.  
15:41:51 7 I'm going to ask you, Mr. Robon, to please -- both  
15:41:57 8 sides, let's keep the side remarks out of the record,  
15:42:00 9 please. Just ask the question. Make your argument in  
15:42:04 10 closing.

15:42:05 11 BY MR. ROBON:

15:42:13 12 Q. In your opinion, was there any effort by anyone  
15:42:21 13 to change the status of the property when you went out  
15:42:25 14 and located the tree stumps and the brambles?

15:42:28 15 MR. BAHRET: Objection. How would he know.

15:42:28 16 BY MR. ROBON:

15:42:31 17 Q. If you know. Was there any evidence?

15:42:33 18 THE COURT: Let's find out if he knows.  
15:42:35 19 I'll overrule.

15:42:36 20 Can you tell? Can you tell? Do you know?

15:42:40 21 A. It didn't appear to me that anybody was trying to  
15:42:43 22 do anything funny. I mean, that's what you're trying  
15:42:46 23 to say?

15:42:46 24 Q. Right.

15:42:46 25 A. I believe the brambles were in the location that

15:42:49 1 they originally were. I don't believe that -- maybe a  
15:42:54 2 bulldozer pushed some dirt on top of them or something  
15:42:57 3 of that sort. But I don't think that they were pushed  
15:43:00 4 away or onto the Cambridge property. I think that's  
15:43:06 5 what they're trying to get at.

15:43:08 6 MR. ROBON: Thank you. Nothing further,  
15:43:09 7 Your Honor.

15:43:12 8 - - -

15:43:13 9 NICK NIGH, RE-CROSS-EXAMINATION

15:43:14 10 BY MR. BAHRET:

15:43:14 11 Q. Sir, would you agree with me that you would have  
15:43:17 12 liked to have known that the scene was changed?

15:43:24 13 A. I mean, I think I would have liked to have known  
15:43:28 14 if there was some work done in there. After the fact or  
15:43:31 15 after some clearing was done?

15:43:32 16 Q. Yeah.

15:43:33 17 A. I would have like to do have known that, yes.

15:43:35 18 Q. And nobody told you?

15:43:36 19 A. Nobody told me that.

15:43:37 20 Q. And the areas where you were finding brambles  
15:43:44 21 were places --

15:43:51 22 MR. BAHRET: How come this thing doesn't  
15:43:53 23 show anything? Here we go.

15:43:53 24 BY MR. BAHRET:

15:43:55 25 Q. Can you see that ditch?



15:43:58 1 A. Yeah.

15:44:00 2 Q. That's the places where the evidence was in these  
15:44:05 3 ditches?

15:44:05 4 A. There was -- there were some things in areas like  
15:44:09 5 that. That's correct.

15:44:10 6 Q. And this is A2, photograph A2.

15:44:22 7 And then photograph A3, you see Mr. McCarthy and  
15:44:30 8 his crew there digging up the scene after they covered  
15:44:33 9 up the scene?

15:44:33 10 A. I see someone. I don't know who it is.

15:44:36 11 Q. And a close up in A17. That shows up great,  
15:44:42 12 doesn't it? This is the sort of thing you never knew  
15:44:48 13 about?

15:44:48 14 A. You're right. I did not know about that.

15:45:07 15 Q. And had you known about that, had you known you  
15:45:08 16 were going to be asked questions about whether the  
15:45:11 17 brambles actually moved, you would have studied them a  
15:45:17 18 bit further? Instead of just identifying them, you  
15:45:20 19 would have checked to see if the root structure is  
15:45:23 20 attached to anything?

15:45:27 21 A. I think if that -- if that came up, yes, you  
15:45:32 22 know. I mean --

15:45:33 23 Q. Again, I'm not implying anything.

15:45:35 24 A. I know. What I'm trying to say is, I mean, I  
15:45:38 25 get a phone call. I was asked to locate some brambles.

15:45:42 1 Q. I'm with you.

15:45:43 2 A. That's the bottom line.

15:45:44 3 Q. But had you known these other issues, you had the  
15:45:48 4 wherewithal and the knowledge to investigate further to  
15:45:52 5 be able to definitively state: Did these brambles move  
15:45:56 6 or not when the bulldozer and tons of dirt were here?

15:45:59 7 A. Again, probably if my client asked me to.

15:46:02 8 Q. Okay.

15:46:03 9 A. You know, I'm in a --

15:46:05 10 Q. But you would have suggested --

15:46:07 11 MR. ROBON: Your Honor, can we let him  
15:46:09 12 finish the answer, please.

15:46:09 13 THE COURT: Were you done with your answer?

15:46:11 14 A. I'm in a situation where, you know, I'm working  
15:46:14 15 for somebody. So I'm doing what they ask me to do.

15:46:17 16 Q. Okay. But my point is, and again, I'm not  
15:46:21 17 arguing with what you said. I appreciate the answer.

15:46:24 18 Had you known of this issue or this problem, you  
15:46:27 19 would at least tell the client how I can help you better  
15:46:31 20 answer this question?

15:46:33 21 A. When I'm out there I might take a better look at  
15:46:35 22 it, you know, to see, knowing that I would be asked  
15:46:40 23 these questions, you know. But I didn't know these  
15:46:43 24 questions were going to be asked, so I'm out there  
15:46:45 25 locating brambles. That's my focus.

15:46:52 1 Q. I'll just leave that issue there.

15:47:09 2 Mr. Robon asked you if you saw any evidence that  
15:47:12 3 anybody was doing any funny business and trying to cover  
15:47:15 4 anything up intentionally.

15:47:18 5 THE COURT: I think struck that; did we not.

15:47:22 6 MR. BAHRET: I didn't think so, but if we  
15:47:24 7 did, I won't go there.

15:47:27 8 MR. ROBON: Let him go there, Your Honor.

15:47:29 9 THE COURT: I'm not going to let him open a  
15:47:32 10 door I've already shut.

15:47:34 11 MR. BAHRET: I was going to ask a corollary.  
15:47:37 12 Does he think the City did anything intentionally.

15:47:40 13 THE COURT: Doesn't that go to the, again,  
15:47:42 14 our discussion earlier about whether he had a foundation  
15:47:44 15 or what he knew and didn't know?

15:47:47 16 MR. BAHRET: You're right. I'm done.  
15:47:49 17 Thank you.

15:47:50 18 THE COURT: Thank you. You may step down.  
15:47:52 19 Thank you.

15:47:56 20 Ready to call your next witness?

15:47:59 21 MR. ROBON: Can I have a five-minute break?

15:48:01 22 THE COURT: We can take a five-minute  
15:48:03 23 standing break, or if someone needs to use the jury  
15:48:07 24 room, you may.

15:53:48 25 (The witness was sworn by the clerk.)

15:54:09 1 MR. ROBON: We're going faster than I  
15:54:11 2 thought today.

15:54:12 3 John, have you been sworn?

15:54:14 4 THE WITNESS: Yeah.

15:54:16 5 - - -

15:54:16 6 JOHN McCARTHY, DIRECT EXAMINATION

15:54:17 7 BY MR. ROBON:

15:54:17 8 Q. Would you introduce yourself to the jury. Tell  
15:54:19 9 the jury about yourself and what you do.

15:54:22 10 A. My name is John McCarthy. I'm a retired  
15:54:28 11 professional engineer. I spent my 30 years with the  
15:54:33 12 Corps of Engineers, mostly as head of the Corps of  
15:54:39 13 Engineers here in Toledo. But we did a number of jobs  
15:54:47 14 with the City. But I've been an engineer mostly with  
15:54:51 15 the Corps. I've done some development work before I  
15:54:57 16 was with the Corps, and some home development work  
15:55:00 17 afterwards. My particularly -- not too many people  
15:55:08 18 know really what the Corps does. The Corps of  
15:55:10 19 Engineers is mainly into flooding, drainage, flood  
15:55:16 20 control, and here in Toledo it was particularly  
15:55:22 21 dredging; that was my main expertise was in those type  
15:55:24 22 of things.

15:55:25 23 Q. And is the Corps of Engineers in charge of all  
15:55:29 24 navigable waters like Lake Erie and things like that?

15:55:33 25 A. Yes. They are. In the Corps of Engineers here

15:55:39 1 in Toledo I was not involved in the wetlands issues and  
15:55:44 2 things like that. I was not -- that was not part of my  
15:55:48 3 office. I had a couple of people that sat in there  
15:55:52 4 that -- they did not work for me.

15:55:53 5 Q. What on a weekly basis, can you describe your 30  
15:55:59 6 years of experience with the Corps of Engineers, the  
15:56:02 7 kinds of things that you would be involved in with  
15:56:04 8 drainage and things like that?

15:56:07 9 A. Well, particularly -- maybe the most pertinent  
15:56:12 10 thing here was in the '80s and '90s we did flood control  
15:56:20 11 projects with the City of Toledo, both at Point Place  
15:56:24 12 and at Swan Creek where my office -- we wouldn't do the  
15:56:30 13 main designs in my little office. We had nine people,  
15:56:35 14 mostly surveyors and half surveyors, and contract  
15:56:41 15 people, and I had another engineer assistant. But we  
15:56:45 16 would do -- we would typically on these type of flood  
15:56:52 17 control projects, we would do the contract  
15:56:55 18 administration, the contractors that built these levies  
15:56:59 19 and dikes, worked for me. We decide what were we to pay  
15:57:10 20 them. The problems we had, especially in my earlier  
15:57:14 21 career, we did most of the problem resolving, redesign,  
15:57:19 22 details, and things like that where we would get  
15:57:22 23 involved with things like the drainage of -- was still  
15:57:28 24 not right in the backyards, people that we built flood  
15:57:32 25 control dikes for, and all the other issues that you'd

15:57:37 1 have with public works projects. We typically were  
15:57:45 2 doing public works projects along the shoreline or along  
15:57:49 3 the river line, so we were particularly involved with  
15:57:59 4 the residents and their properties as opposed to our  
15:58:03 5 properties and coordinating that with the contractors  
15:58:07 6 and our own people, our own surveyors and that kind of  
15:58:11 7 thing.

15:58:11 8           Maybe the most pertinent thing here, we would do  
15:58:17 9 redesigns, or when we had problems we would use our  
15:58:20 10 basic civil engineering type of things as far as basic  
15:58:30 11 ponding and what the impacts of pipes being in or out,  
15:58:36 12 or how big you needed a pipe to drain a certain area,  
15:58:41 13 you know, that kind of thing.

15:58:43 14           We did construction of the -- in a flood control  
15:58:48 15 project you typically have as much incidental  
15:58:52 16 construction as far as the roads and the sewers and  
15:58:56 17 waterlines and gas lines and everything else that has to  
15:59:01 18 be rearranged when you put a flood control project in.  
15:59:05 19 You have to redo all these things. And you have impacts  
15:59:10 20 from all the other lines or you're typically crossing  
15:59:14 21 and a pump station and that kind of thing.

15:59:18 22           So the Corps of Engineers experience was quite --  
15:59:21 23 from a civil engineering -- I'm a civil engineer -- kind  
15:59:26 24 of covered the gamut as far as civil engineering kind of  
15:59:31 25 things.

15:59:31 1 Q. Can you tell the jury how you first met Jack  
15:59:37 2 Laskey and under what circumstances?

15:59:40 3 A. Yes. I think -- the first time I really met him  
15:59:48 4 was when this situation came up with the tree clearing  
15:59:53 5 out behind my son's house.

15:59:56 6 Q. Where is your son's house?

15:59:58 7 A. My son's house is on lot 15 on Cambridge  
16:00:03 8 development.

16:00:05 9 Q. The one that backs up to the railroad?

16:00:07 10 A. The one that backs up to the railroad.

16:00:09 11 Q. And he lives there?

16:00:10 12 A. He lives there. And he's -- he had just moved  
16:00:16 13 in there. I understand now. I thought it was 2005,  
16:00:19 14 but it was actually early 2006. He had just moved in  
16:00:23 15 there. And he called me up and he said, What do you  
16:00:26 16 think they're doing back here? I didn't know; I said,  
16:00:29 17 Well, I'll find out. And I came over to look at it.

16:00:34 18 And I'm not sure if it was that day or shortly  
16:00:37 19 thereafter I met Jack. I'm not -- we might have met  
16:00:40 20 before that incidentally because my son had worked with  
16:00:44 21 Jack before. That's when I first met Jack, when this  
16:00:49 22 problem started.

16:00:51 23 Q. And can you give us kind of a dateline after your  
16:00:57 24 son called you, and you went out and you saw the tree  
16:01:00 25 clearing, which would have been in April of '06?

16:01:04 1 A. '06.

16:01:06 2 Q. Tell us what you did.

16:01:11 3 A. Well, I did a number of things. First of all,  
16:01:18 4 we started finding out who it was that was clearing the  
16:01:22 5 trees. And we found out. I don't know. I can't  
16:01:27 6 remember, just who we found that out from at first. But  
16:01:32 7 we found out that it was a City project and it was a  
16:01:35 8 water main project.

16:01:38 9 And my son and I first -- I think before Jack  
16:01:43 10 came along, my son and I went to different ideas, what  
16:01:46 11 are we going to do here because, you know, his house  
16:01:49 12 was -- his wife and his kids were -- I think he had one  
16:02:00 13 son then. How are we going to deal with this thing? So  
16:02:03 14 we went with that, looking at what it was and what we  
16:02:07 15 could do to kind of mitigate the tree damage. And  
16:02:18 16 we -- I started looking at different options, of  
16:02:22 17 building a mound like somewhat like the levies that we  
16:02:26 18 did in the Corps, putting a levy back there, a mound  
16:02:30 19 back there to put trees up on. And we came up with  
16:02:36 20 different ideas and different -- talked to different  
16:02:39 21 people, prices, and how we could do that. And talked  
16:02:44 22 to Jack a lot about, you know, where are we going to get  
16:02:47 23 the money to do this at this point. And, you know,  
16:02:53 24 that's how we --

16:02:56 25 Q. At that point did you become a consultant to Old



16:02:59 1 Granite Development?

16:03:00 2 A. Well, I'm not sure we formalized this as a  
16:03:04 3 consultant until really the following year. I was just  
16:03:09 4 doing it. Jack was getting some money for basically  
16:03:15 5 for the -- when we started building this mound and  
16:03:18 6 trying to do the treeing ourselves there, and towards  
16:03:22 7 the end of April. So Jack was trying to get some  
16:03:29 8 money. And he was paying me at first as just as an  
16:03:33 9 employee of Old Granite. And then in 2007 I had some  
16:03:41 10 other things going on, and I got incorporated and became  
16:03:47 11 a consultant. That was kind of the way that -- the  
16:03:50 12 situation evolved.

16:03:53 13 Q. Can you tell the jury when you first realized  
16:03:59 14 that there may have been a problem with the tree  
16:04:03 15 cutting?

16:04:06 16 A. A problem as far as the local residents were  
16:04:11 17 concerned or as far as --

16:04:13 18 Q. As far as the property line in the back of the  
16:04:17 19 Cambridge subdivision. And if you don't understand my  
16:04:20 20 question, please ask --

16:04:27 21 A. I think back in April, we started looking at it  
16:04:34 22 and saying, Well, you know, hey, this is right along the  
16:04:39 23 property line here. Certainly at least some of these  
16:04:43 24 trees look like they're out on Cambridge property. And  
16:04:48 25 I called -- I did some -- I did some investigation

16:04:54 1 myself. I went and had some guys working for me. I'm  
16:04:59 2 putting an addition on my own home, and I brought them  
16:05:02 3 over and we measured from the railroad track. We had  
16:05:05 4 that drawings from Jack and from his site developer.  
16:05:11 5 And we started checking some things out, found the  
16:05:14 6 monuments on the property.

16:05:16 7 Q. The corner monuments?

16:05:17 8 A. The corner monuments on the property. We found  
16:05:20 9 them and we --

16:05:21 10 Q. Let me stop you right there for a moment.  
16:05:34 11 Having you look at Exhibit 41, is that one of the corner  
16:05:39 12 monuments you found?

16:05:40 13 A. Yes. I'm sure. It's got a green plastic tube  
16:05:45 14 around it.

16:05:45 15 Q. Yes. I didn't mean to interrupt you.

16:05:47 16 A. We found those, and from them, with the railroad  
16:05:50 17 right there, we were able to measure off. And it was  
16:05:53 18 pretty clear to us that there was -- there was some  
16:05:57 19 trespassing as well.

16:05:59 20 MR. BAHRET: Objection.

16:06:02 21 THE COURT: Overruled. He may continue.

16:06:04 22 Q. Trespassing by whom?

16:06:06 23 A. By the clearing contractor.

16:06:08 24 Q. City of Toledo?

16:06:09 25 A. City of Toledo.

16:06:10 1 MR. BAHRET: Objection.

16:06:11 2 A. They were working for the City of Toledo.

16:06:15 3 MR. BAHRET: Objection. They were not  
16:06:16 4 working for the City of Toledo. They were working for  
16:06:19 5 Ric-man.

16:06:19 6 THE COURT: Well, let's -- we'll sustain  
16:06:22 7 that objection. The jury will disregard the answer.  
16:06:25 8 Let's keep moving.

16:06:26 9 A. Of course, we didn't know anything about who was  
16:06:29 10 the subcontractor or anything at that time. We just  
16:06:32 11 knew this was something to do with the City of Toledo.

16:06:36 12 Q. Okay. So you became suspicious?

16:06:39 13 A. Yes. We marked it out ourselves. With the  
16:06:45 14 railroad there, it's not a big surveying mystery. You  
16:06:49 15 can come right off the railroad. The railroad goes  
16:06:52 16 right up parallel with the property line.

16:06:54 17 Q. Explain that to the jury. I don't understand  
16:06:57 18 what you're telling me.

16:06:58 19 A. Well, in the engineering world, if you're near a  
16:07:06 20 railroad, that's usually your base line for your control  
16:07:10 21 of all your property alignments and that kind of thing.  
16:07:15 22 And fortunately we had a railroad right there, so it  
16:07:20 23 was -- it was very easy to measure off that center line  
16:07:25 24 of railroad, the active railroad, which was over about  
16:07:28 25 100 feet. You could accurately go along that back

16:07:33 1 property line of Cambridge and see just what it was.

16:07:39 2 Q. And what did you see?

16:07:40 3 A. We saw there were -- at that time there were  
16:07:50 4 whole trees, whole large trees, a few large trees,  
16:07:57 5 stumps that were clearly on Cambridge property. There  
16:08:03 6 were bushes or brambles that were coming out of the  
16:08:08 7 ground; those were clearly on -- between the trees; they  
16:08:15 8 were clearly on Cambridge property. And I think -- I'm  
16:08:23 9 not sure exactly when I called Christy Soncrant, but  
16:08:28 10 somewhere along the line we got in touch with them, and  
16:08:32 11 I got in touch with our site engineer to double-check  
16:08:39 12 the monuments make sure the monuments -- because they'd  
16:08:42 13 only been there for, at that time, five, six years.

16:08:46 14 Q. Is that Mr. Night?

16:08:46 15 A. Yes, I talked to his boss.

16:08:51 16 Q. What happened with Peterman Associates then?

16:08:54 17 A. I asked them to come out and double-check the  
16:08:57 18 monuments and for them to put in a couple of  
16:09:03 19 intermediate stakes along the back property.

16:09:06 20 Q. What do you mean, intermediate stakes?

16:09:08 21 A. Well, the intermediate stakes, we have a monument  
16:09:12 22 at each corner, that's approximately 1,000 feet apart.  
16:09:16 23 It's a long ways to eyeball anything. So they put in  
16:09:21 24 at least one or two intermediate stations at 500 feet  
16:09:27 25 and maybe more.

16:09:29 1 Q. Were these stakes then on the property line?

16:09:31 2 A. Yes. They were put right on the property line.

16:09:34 3 Q. And from those station, what did you determine?

16:09:37 4 A. That, indeed, our more exacting measurements, and  
16:09:43 5 we actually put lines up, that -- we were right on, too.  
16:09:51 6 That we were accurate. That our -- when we measured  
16:09:57 7 back from the railroad, we put in little stations along  
16:10:00 8 that line, especially where the trees looked like they  
16:10:04 9 were trespassing.

16:10:04 10 Q. Can you describe for the jury whether there were  
16:10:07 11 cuttings beyond the surveyor markers into the Cambridge  
16:10:10 12 subdivision at that point in time?

16:10:13 13 A. Yes. We could see that right from the beginning.

16:10:15 14 Q. And how far? How far into the subdivision?

16:10:19 15 A. Well, the worst area that we saw that was on the  
16:10:22 16 ground, the stumps, was about five feet. And it was  
16:10:29 17 leaning -- there's a -- it's not -- so it was -- the  
16:10:39 18 worst area was about five feet; five, six feet,  
16:10:44 19 depending on whether you included the railroad ties,  
16:10:47 20 which didn't have trees on them, but the trees were  
16:10:50 21 hanging right over them. So it was about -- it was  
16:10:54 22 about five or six feet that we ascertained was the worst  
16:10:58 23 part in there.

16:10:59 24 Q. And the stuff was cut down in there?

16:11:01 25 A. Yes, it was cut down in there.

16:11:06 1 Q. Take a look at Exhibit Number 92. Is that a  
16:11:18 2 photograph that you took?

16:11:19 3 A. Yes, it's one of my guys -- yes, this is -- one  
16:11:25 4 of my people took this photograph.

16:11:27 5 Q. And you were there?

16:11:29 6 A. Yes.

16:11:30 7 Q. Can you explain to the jury what that picture  
16:11:54 8 connotes or shows?

16:11:57 9 A. Yes. This is one of those intermediate stakes  
16:12:02 10 that we put in.

16:12:04 11 Q. You or Peterman?

16:12:05 12 A. No, not Peterman. These one-inch diameter  
16:12:10 13 stakes we put in. And he just had to put the  
16:12:17 14 intermediate station on, that we had checked these, tied  
16:12:21 15 these in too. These, my guys put in. This wasn't done  
16:12:27 16 by the surveyor.

16:12:27 17 Q. Well, I'm confused. This is before Peterman  
16:12:30 18 came out or after Peterman came out?

16:12:37 19 A. This was after his initial time out. This is  
16:12:41 20 marked here May 10. Nick told me that the first time  
16:12:47 21 they came out, when Nick did not come out, was the end  
16:12:51 22 of April.

16:12:55 23 Q. I'm sorry, I didn't have that over here. So you  
16:12:58 24 dated this photograph?

16:12:59 25 A. Yes. Yes. This is dated with a stationing

16:13:05 1 along the City system that was located. And -- but  
16:13:10 2 Peterman had already been out, checked the corner  
16:13:14 3 monuments, put an intermediate stake in the area that we  
16:13:18 4 could go and further put these liner stakes in. So we  
16:13:26 5 had that checked. He was out there earlier.

16:13:29 6 Q. What's the red line that is in the left-hand  
16:13:35 7 corner going this way from the left-hand corner down the  
16:13:42 8 line?

16:13:42 9 A. That's the property line that we superimposed on  
16:13:46 10 this.

16:13:47 11 Q. When you say we, who is we?

16:13:49 12 A. I had a young fellow working for me. He was  
16:13:53 13 kind of a computer graphics guy. And he put that line  
16:13:59 14 on. I told him, let's -- so, because we don't know  
16:14:03 15 where we're going here, let's put it in, the angle, as  
16:14:06 16 best we can on that.

16:14:08 17 Q. And does that photograph accurately depict where  
16:14:11 18 the property line was back in May 10 of 2006 --

16:14:17 19 MR. BAHRET: Objection.

16:14:18 20 Q. -- in connection with the tree cutting?

16:14:20 21 MR. BAHRET: Objection. No foundation that  
16:14:22 22 he can establish the property line.

16:14:23 23 THE COURT: I think we need to do that  
16:14:25 24 first. Sustained.

16:14:28 25 BY MR. ROBON:

16:14:28 1 Q. Did you indicate -- explain to the jury, Mr.  
16:14:31 2 McCarthy, how you determined that the property line was  
16:14:37 3 where you said it was? You had Peterman come out, do  
16:14:42 4 the corner stakes, then he put some stakes in the  
16:14:44 5 middle?

16:14:45 6 A. Right.

16:14:45 7 Q. What did you do after that --

16:14:46 8 A. We went --

16:14:48 9 Q. -- from a surveying perspective?

16:14:50 10 A. We went from those stakes, and we extended that  
16:14:55 11 line, using the railroad line, you know, those stakes  
16:15:00 12 were 101 feet from the railroad line, and we came down  
16:15:05 13 and we used that same distance to set these stakes. So  
16:15:10 14 we knew we were on the -- within an inch or so. We were  
16:15:17 15 on the line.

16:15:20 16 Q. On the property line?

16:15:21 17 A. On the property line. And this superimposed red  
16:15:24 18 line I think, even as Christy and I agreed, the exact  
16:15:28 19 angle of this thing is not of the same order of  
16:15:34 20 accuracy. This could be trusted a little bit. It's  
16:15:36 21 very hard to take a photo and get the angle just right.

16:15:40 22 Q. When you say you and Christy, you mean Mrs.  
16:15:44 23 Soncrant?

16:15:44 24 A. Yes.

16:15:45 25 Q. Did he agree with you on something with regard to



16:15:48 1 the property line regarding this photo?

16:15:55 2 A. No. She had -- the City surveyors came out. We  
16:16:03 3 brought Peterman back. And we treated this as, you  
16:16:14 4 know, this was, I think -- I think, as I recall, Christy  
16:16:23 5 didn't have any problem so much with the stake, but the  
16:16:26 6 line may be twisted somewhat.

16:16:30 7 Q. Well, tell us what you did after May 10 of '06.

16:16:38 8 A. Well, after May 10, we were building -- I think  
16:16:48 9 we were still -- we were building the mound.

16:16:52 10 Q. Behind lot 15 and 16?

16:16:56 11 A. Lot 15. I think we started this. I think we  
16:16:59 12 did some of the work even -- my dates on some of the  
16:17:03 13 receipts was even before this that we avoided this area.  
16:17:06 14 We were hauling in dirt.

16:17:08 15 Q. And can you tell the jury why you were hauling  
16:17:11 16 dirt in?

16:17:12 17 A. Well, this was a disaster as far as the  
16:17:17 18 development, the sales, my son.

16:17:20 19 MR. BAHRET: Objection and move to strike  
16:17:22 20 reference to sales. He has no qualifications on that.

16:17:29 21 THE COURT: Unless a proper foundation can  
16:17:31 22 be laid, I'll sustain that.

16:17:32 23 BY MR. ROBON:

16:17:32 24 Q. Just tell the jury the facts, what you did and  
16:17:35 25 why you did it with regard to the mud.

16:17:43 1 A. I went and hired a contractor to start bringing  
16:17:48 2 fill in, to start building the mound to put the trees on  
16:17:52 3 top of it.

16:17:54 4 Q. Okay. And can you tell the jury roughly how many  
16:17:57 5 loads of earth that you had brought in?

16:18:00 6 A. Yes. We brought in -- I think it was -- I think  
16:18:08 7 we said 100. And we said 60. But I think it was -- I  
16:18:15 8 think it was 60 when we rechecked it after deposition  
16:18:19 9 and that. I think it was 60 loads of dirt, and about  
16:18:24 10 600 cubic yards of dirt was brought in as the first  
16:18:28 11 stage of building a mound to put trees on it.

16:18:33 12 Q. And you brought it in how?

16:18:35 13 A. By truck. We --

16:18:37 14 Q. From where?

16:18:38 15 A. We brought it in from Five Point Road. I talked  
16:18:43 16 to some of the contractors that I knew in the area, and  
16:18:46 17 they showed me an area that they had clean fill.

16:18:49 18 Q. And how did you get access?

16:18:51 19 A. We came down the -- right down the railroad. It  
16:18:55 20 was all cleared and there was no one there. We brought  
16:18:59 21 it right down the -- right from Bates Road down the  
16:19:04 22 railroad line and dumped it, dumped it into the  
16:19:09 23 property.

16:19:09 24 Q. And can you tell the jury how long a period of  
16:19:13 25 time did this dumping of earth last: a day, a week, a

16:19:20 1 month?

16:19:20 2 A. We only run one day. We only ran one day the  
16:19:25 3 trucks. We had, like, a dozen big dump trucks coming  
16:19:30 4 from Five Point Road.

16:19:31 5 Q. And was the dirt free?

16:19:34 6 A. Well, it was supposed to be free, but then at the  
16:19:37 7 last moment they wanted a couple dollars per cubic yard,  
16:19:41 8 which I paid them.

16:19:43 9 Q. And what did you do after the one day that the  
16:19:46 10 earth was delivered to the site?

16:19:51 11 A. That day we also had equipment there moving the  
16:19:53 12 dirt. And the following day we also started placing  
16:19:58 13 the fill, getting ready to readjust the drainage to  
16:20:02 14 receive this fill, and we did -- we started the mound.

16:20:09 15 Q. Okay. Now, when you say adjusted the drainage,  
16:20:13 16 when we were on the jury view, there was a drain tile  
16:20:16 17 that was perpendicular to the railroad?

16:20:19 18 A. Right.

16:20:21 19 Q. About three to four inches under water, looked  
16:20:24 20 like it was about 12 inches in diameter?

16:20:27 21 A. We put that in.

16:20:28 22 Q. Who installed that?

16:20:29 23 A. We put that in. That was all to do with the  
16:20:31 24 mound.

16:20:31 25 Q. Where did that drainage pipe go to?

16:20:34 1 A. That drainage pipe went into the railroad -- the  
16:20:40 2 railroad storm drain that they had right inside there.  
16:20:43 3 We tapped into that and brought that out to make sure  
16:20:46 4 that we had good drainage all along through there.

16:20:50 5 Q. First of all, can you tell the jury whether or  
16:20:53 6 not that drain tile is operative today?

16:20:56 7 A. No, it's not operative today.

16:20:58 8 Q. Can you explain why it's not operative today?

16:21:01 9 A. It's not operative today because the pipe  
16:21:05 10 crossing that connected it and let all that out the main  
16:21:09 11 culvert that let it out to the south, out to the center  
16:21:12 12 ditch, was cut off during the water main construction.

16:21:16 13 Q. Now, can you tell the jury why you only dumped  
16:21:21 14 earth one day?

16:21:25 15 A. Yes. I think the main thing was that we were --  
16:21:34 16 Jack and you and I, I think you were talking to Jack. I  
16:21:37 17 didn't even --

16:21:38 18 Q. Forget the conversations. Tell us why you  
16:21:41 19 stopped.

16:21:41 20 A. Because it looked like we were covering up -- we  
16:21:45 21 were covering up some of this evidence of trees.

16:21:49 22 Q. And you were advised to stop?

16:21:51 23 MR. BAHRET: Objection.

16:21:52 24 A. Yes.

16:21:53 25 THE COURT: Overruled.

16:21:56 1 Q. What did you then do?

16:22:00 2 A. Well, we disbanded this -- we disbanded this  
16:22:10 3 operation of building this mound and that, and we pretty  
16:22:16 4 much started -- I was trying to, you know, ask the City  
16:22:23 5 of Toledo to come out and, you know, verify these trees  
16:22:30 6 are there, we'd still like to build this mound, and that  
16:22:33 7 kind of thing. And the City came out and did -- they  
16:22:40 8 did surveys. I recalled Nick Nigh --

16:22:47 9 Q. From Peterman?

16:22:48 10 A. -- from Peterman. I asked him to come out and,  
16:22:52 11 you know, in light of us having this dirt.

16:22:57 12 And the City was saying, Well, you know, some of  
16:23:02 13 this is covered up. And I said, well, you come out;  
16:23:06 14 I'll -- whatever seems to be -- some of this right on  
16:23:12 15 the edge of this was covered up. We'll bring a small  
16:23:16 16 backhoe in, and we'll clear out the very edge here so  
16:23:21 17 that we can see -- we can see this -- the worst part of  
16:23:27 18 the trespass clearing.

16:23:28 19 Q. And did you do that?

16:23:29 20 A. Yes, we did that. We dug -- I had an equipment  
16:23:35 21 operator, and I even helped operate the machine myself.  
16:23:40 22 We carefully dug it out and --

16:23:42 23 Q. How deep did you dig?

16:23:44 24 A. We dug about four or five feet deep. The trench  
16:23:49 25 that you might have seen still out there is kind of

16:23:53 1 partially filled in.

16:23:54 2 Q. And what -- when you dug four or five feet deep,  
16:23:58 3 what was exposed?

16:23:59 4 A. Like you see here, this was -- these shoots that  
16:24:11 5 were sticking up, the trunks, all of this was -- it had  
16:24:19 6 some dirt on it. Most of it was just under the surface  
16:24:23 7 but some of it we had to clean off by hand to show these  
16:24:26 8 were freshly cut trees.

16:24:28 9 Q. Did you show the City surveyors that?

16:24:30 10 A. Yes. The surveyors came out. Christy came out  
16:24:36 11 afterwards. I think this -- maybe probably right  
16:24:45 12 around this time in this picture that's up here, Christy  
16:24:48 13 came out and we went through this again. Here's the  
16:24:57 14 trees. Here's -- it's cleared up now. Let's not have  
16:25:00 15 any doubt that this stuff was -- really, it was the  
16:25:05 16 extent of it, particularly on the -- what was covered up  
16:25:09 17 was the brambles and the small shoots the size of your  
16:25:13 18 fingers and thumbs that were coming up and coming out  
16:25:16 19 onto just over the property line, was coming up on  
16:25:22 20 Cambridge property. But those were hard to see because  
16:25:25 21 some of those were busted off. The way those bushes  
16:25:34 22 grow, there's -- the clumps, the stump is actually below  
16:25:38 23 ground, and they branch out underground, and they come  
16:25:41 24 out of the ground as shoots. And so we were trying to  
16:25:44 25 clear as much of that up, even some of these things

16:25:48 1 here, some of the bigger shoots. But there were shoots  
16:25:53 2 every two inch, six inches. This was a maze of  
16:26:01 3 small --

16:26:02 4 Q. Mr. Nigh testified a minute ago that there were  
16:26:06 5 thousands of brambles. Tell the jury what you saw?

16:26:09 6 A. We even tried to go --

16:26:11 7 Q. Tell the jury what you saw.

16:26:13 8 A. We saw thousands of brambles coming up to just in  
16:26:21 9 this 300 feet, whatever we were investigating here, 250  
16:26:25 10 feet.

16:26:26 11 Q. So the earth that you brought to the site only  
16:26:32 12 covered a portion of a couple of the lots in the back?

16:26:35 13 A. Yes. Six -- part of 16, 15, and part of 14.

16:26:43 14 Q. So you didn't affect 12 or 13, part of 14?

16:26:49 15 A. No, we didn't build a mound on there. We were  
16:26:53 16 getting ready to build a mound down there.

16:26:55 17 Q. I understand, but no dirt was hauled in --

16:26:58 18 A. No, we didn't bring any dirt down there.

16:27:01 19 Q. Tell the jury about the attitude of the City  
16:27:04 20 personnel when you kept communicating with them?

16:27:07 21 MR. BAHRET: Objection.

16:27:13 22 MR. ROBON: I'll rephrase the question.

16:27:14 23 THE COURT: Thank you.

16:27:14 24 BY MR. ROBON:

16:27:14 25 Q. Would you tell the jury your impression of the

16:27:17 1 City's interest with regard to the Cambridge  
16:27:24 2 subdivision.

16:27:24 3 MR. BAHRET: I object to that too.

16:27:26 4 THE COURT: Sustained.

16:27:27 5 Q. What was your impression of the City's attitude?

16:27:30 6 MR. BAHRET: Objection.

16:27:33 7 THE COURT: Let me see counsel up here.

16:27:36 8 (Discussion had off the record.)

16:28:52 9 BY MR. ROBON:

16:28:53 10 Q. Mr. McCarthy --

16:28:55 11 A. Yes, sir.

16:28:55 12 Q. -- would you indicate to the jury whether you  
16:28:58 13 felt a cooperative or uncooperative colloquia, or with  
16:29:07 14 the City of Toledo representatives?

16:29:09 15 MR. BAHRET: Objection, Your Honor.

16:29:10 16 THE COURT: Overruled. He may answer.

16:29:13 17 A. Maybe I'll just tell you what transpired, and  
16:29:17 18 make up your own mind. But I asked that they send out  
16:29:24 19 the survey crew. And we talked to the survey crew when  
16:29:27 20 they were out there. Our surveyor, my surveyors, not  
16:29:33 21 Nick Nigh, but my guys were throughout who had put these  
16:29:37 22 lines in, these stakes. And we talked to the  
16:29:40 23 surveyors. And the surveyors, they're just working  
16:29:47 24 guys, like my own working guys. We didn't have any  
16:29:50 25 problem with them. They were trying to do GPS, and



16:29:53 1 they were trying to bring this in and make sure -- check  
16:29:58 2 our monuments and that. So they were at least out  
16:30:03 3 there checking it.

16:30:05 4 And the only rub came in, they sent -- they went  
16:30:14 5 back; they didn't give us anything. They went back to  
16:30:18 6 their office, and it just seemed as though after we had  
16:30:24 7 talked to them, and when I say we, my man, Will Heineman  
16:30:30 8 was a fellow that was working for me. He talked to  
16:30:32 9 them more than I did. But they were very -- the  
16:30:39 10 workmen themselves were very cooperative. They said  
16:30:42 11 right then, we don't have any problem. The railroad is  
16:30:45 12 right here. Your stakes are right on. Your  
16:30:51 13 monuments, we don't have any problem with your  
16:30:53 14 monuments. But, you know, all we're working with is  
16:30:56 15 this GPS. We're not -- our drawings aren't tied into  
16:31:03 16 your monuments and that kind of thing. And, you know,  
16:31:09 17 our main office might have a different idea about, yeah,  
16:31:15 18 your stakes and your line and our lines, the same thing.

16:31:18 19 Q. When you say your main office, you're talking  
16:31:22 20 about?

16:31:22 21 A. The City of Toledo.

16:31:23 22 Q. The administration?

16:31:24 23 A. Their administration. They have a man, his name  
16:31:27 24 is Babcock, I think was his name. And so I called him  
16:31:35 25 up and I said, Hey, are we square on this surveying?

16:31:39 1 Your guys are out here.

16:31:41 2 MR. BAHRET: Your Honor, I'm going to object  
16:31:42 3 to this.

16:31:43 4 THE COURT: He's now getting into hearsay.

16:31:48 5 A. But that's what we did. We talked to them. And  
16:31:51 6 he told me, Mr. Babcock told me --

16:31:56 7 MR. BAHRET: There's not a question here.  
16:31:58 8 It's still hearsay, and I still object.

16:32:00 9 MR. ROBON: He's indicating what happened,  
16:32:02 10 Your Honor.

16:32:02 11 THE COURT: He's giving a narrative of the  
16:32:08 12 question.

16:32:08 13 MR. ROBON: I'll rephrase the question.

16:32:11 14 BY MR. ROBON:

16:32:11 15 Q. Would you tell the jury about your conversation  
16:32:14 16 with Mr. Babcock? Was he the commissioner at the time?

16:32:18 17 MR. BAHRET: Objection.

16:32:19 18 A. He was the survey chief.

16:32:21 19 THE COURT: Overruled.

16:32:22 20 Q. You can answer.

16:32:23 21 A. He was their survey office chief.

16:32:26 22 Q. And tell us about the conversation.

16:32:29 23 MR. BAHRET: I object.

16:32:32 24 THE COURT: That's inviting hearsay in part.  
16:32:34 25 I don't know what he's going to say.

16:32:36 1 MR. ROBON: The point is it's the City of  
16:32:38 2 Toledo. They're a defendant in this case. There is  
16:32:40 3 no hearsay. They're a party defendant. It's an  
16:32:43 4 admission against interest.

16:32:45 5 MR. BAHRET: No, it's not an admission  
16:32:46 6 against interest. Plus he's not in a position to make  
16:32:50 7 admissions or denials on behalf of the City. You have  
16:32:52 8 to have somebody from administration.

16:32:55 9 THE COURT: I'm unclear on Mr. Babcock's  
16:32:58 10 position.

16:32:58 11 MR. BAHRET: He's the chief surveyor.

16:33:00 12 THE COURT: Employed by the City?

16:33:01 13 MR. BAHRET: Yes.

16:33:04 14 THE COURT: Let's go back to the question.  
16:33:09 15 Did you have a conversation with Mr. Babcock at some  
16:33:13 16 point?

16:33:13 17 THE WITNESS: Yes, by phone.

16:33:17 18 THE COURT: By phone. And, Mr. Robon, your  
16:33:20 19 question is?

16:33:20 20 BY MR. ROBON:

16:33:21 21 Q. My question is, can you tell us about that  
16:33:23 22 conversation, what transpired?

16:33:26 23 A. Just what he was saying is --

16:33:29 24 MR. BAHRET: I object.

16:33:30 25 THE COURT: Overruled.

16:33:33 1 A. These surveys, you don't know within a foot or  
16:33:36 2 two, that you can never really be that accurate, and  
16:33:43 3 basically the stuff that my men saw out there, if it was  
16:33:48 4 a foot or two over this way, none of these trees would  
16:33:51 5 be on your property. He mentioned that type of thing.  
16:33:59 6 That was his -- that was his -- the gist of what he  
16:34:06 7 said.

16:34:06 8 Q. Okay.

16:34:07 9 A. And so what I did then was say, Well, look --  
16:34:11 10 what I requested, why don't we have a joint survey. You  
16:34:15 11 bring your people out here. We'll have our people out  
16:34:17 12 here, and we'll both survey. This is what, at least in  
16:34:20 13 the Corps of Engineers, when we had a survey dispute, it  
16:34:23 14 was the only way we could sanely resolve it because once  
16:34:28 15 this stuff goes back a way, just like you guys are  
16:34:32 16 having trouble with, the same with the administration on  
16:34:35 17 these things, we can't figure it out.

16:34:36 18 Q. Tell us what occurred. Did a joint survey  
16:34:39 19 occur?

16:34:39 20 A. We scheduled it. We tried to schedule it with  
16:34:45 21 Christy. They were going to come back out, and we were  
16:34:48 22 both going to go and sit on these things, and have  
16:34:53 23 exactly what -- where these things were. Not this foot  
16:34:58 24 or two difference that Mr. Babcock was alluding to.

16:35:02 25 Q. Did that ever happen?

16:35:03 1 A. We came out.

16:35:04 2 THE COURT: Did it happen? Yes or no.

16:35:06 3 THE WITNESS: No.

16:35:06 4 THE COURT: Thank you.

16:35:07 5 A. They wouldn't come out.

16:35:08 6 MR. BAHRET: Objection.

16:35:10 7 Q. Can you tell the jury why it didn't happen?

16:35:13 8 A. Christy told me that they had to go do something  
16:35:16 9 else.

16:35:22 10 THE COURT: There's no question pending.  
16:35:24 11 Unless you're still answering the question.

16:35:27 12 A. Well, I think it is in the sense eventually they  
16:35:32 13 did put a guideline there exactly. We put our line in  
16:35:36 14 more exactly with Nick Nigh. And both lines did indeed  
16:35:42 15 fall on top of each other. This was sort of like a  
16:35:46 16 nothing thing with Bob Babcock.

16:35:49 17 Q. So the City -- is it your testimony that the City  
16:35:53 18 then agreed with your and Nick Nigh's survey?

16:35:57 19 A. The property line they -- they put their stakes  
16:36:03 20 right next to ours, or we put our stakes right next to  
16:36:09 21 theirs. Without them coming and acknowledging, yes,  
16:36:11 22 and all, the fact is, though, the stakes were against  
16:36:15 23 each other. The lath, quarter-inch lath is right up  
16:36:19 24 against each other. And as far as I was concerned, we  
16:36:23 25 didn't have a survey problem or a foot or two

16:36:27 1 difference. This thing that you're looking at here was  
16:36:31 2 tied into them. This was, you know, no question about  
16:36:38 3 it.

16:36:38 4 Q. Okay. And so tell the jury where the brambles  
16:36:44 5 were after the City came out and staked it a second  
16:36:48 6 time. Were they on the railroad property or on the  
16:36:50 7 Cambridge property, the ones that were cut?

16:36:55 8 A. When they came out the second time, we had  
16:36:58 9 already dug -- like we just talked about earlier, we had  
16:37:02 10 already dug this out. And they came out --

16:37:05 11 THE COURT: The question is -- I'm sorry to  
16:37:07 12 interrupt you -- which side were the brambles located.

16:37:10 13 A. The brambles that we were talking about were  
16:37:14 14 still on the Cambridge side.

16:37:17 15 Q. Okay. Thank you. Now, this occurred in what  
16:37:23 16 month? Do you recall?

16:37:24 17 A. Yes. This was in May. This May 10th -- the  
16:37:31 18 thing here.

16:37:32 19 Q. What was the next major event that occurred with  
16:37:39 20 the City of Toledo and the Cambridge subdivision after  
16:37:45 21 May of 2006?

16:37:53 22 A. Well, I'm not sure which -- how far away you're  
16:37:56 23 talking about, Marv, but we went as far as we could with  
16:38:04 24 this survey. We brought Nick Nigh out to make this  
16:38:08 25 drawing and survey, each one of the stumps and as many

16:38:12 1 of the bramble shoots that he could, and make that map.  
16:38:16 2 We did that. And I think that's really all that we did  
16:38:21 3 on this.

16:38:25 4 Q. Tell the jury whether or not you or anybody  
16:38:28 5 employed by Mr. Laskey or Mr. Taylor or by the  
16:38:32 6 contractor you hired to run the dozer, did anybody move  
16:38:37 7 any of the roots of the brambles or the tree stumps?

16:38:42 8 A. No, we didn't remove anything.

16:38:45 9 Q. Move, m-o-v-e?

16:38:48 10 A. You mean move?

16:38:50 11 Q. Did you push the brambles from one side to  
16:38:55 12 another?

16:38:55 13 A. Understand, these brambles and trees are not  
16:38:59 14 moved.

16:38:59 15 Q. Answer my question, please. Did you or anybody  
16:39:03 16 on your behalf, Mr. Laskey's behalf, use a bulldozer or  
16:39:08 17 a backhoe or any kind of equipment and move the location  
16:39:13 18 of those original brambles that were cut?

16:39:16 19 A. No. How could we do that?

16:39:19 20 Q. That's not what I'm asking.

16:39:21 21 A. No, we didn't do that.

16:39:23 22 Q. Thank you.

16:39:23 23 What then occurred with regard to the  
16:39:26 24 installation of the 66-inch water main?

16:39:40 25 A. Right after this they were -- they were regrading

16:39:47 1 the area on top of the old railroad.

16:39:50 2 Q. They, being?

16:39:51 3 A. The contractor, Ric-man.

16:39:53 4 Q. For the City?

16:39:54 5 A. For the City. Was regrading the area up on the  
16:39:59 6 railroad bed. And the next -- the issue we started  
16:40:07 7 getting into immediately was the cross drain, the  
16:40:14 8 railroad cross drain.

16:40:16 9 Q. And how did you know about that?

16:40:20 10 A. When we went out there during the course of this  
16:40:27 11 situation, they were still continuing back into May.  
16:40:33 12 They were continuing to prepare to put this water main  
16:40:36 13 in, grading off and cleaning up things. And one of the  
16:40:43 14 things that I saw, and I may have seen this before out  
16:40:48 15 there, but I noticed that the cross drain manhole, which  
16:40:52 16 is just off the Cambridge property --

16:40:56 17 Q. Would you come over here. I want you to identify  
16:40:59 18 where that is, please, here on Exhibit Number 6. Use  
16:41:13 19 this and point for the jury what manhole you're  
16:41:17 20 referring to.

16:41:23 21 A. This manhole right here.

16:41:25 22 Q. How did you first observe that?

16:41:28 23 A. I believe the first I saw this was in walking  
16:41:33 24 around with this tree clearing thing, we noticed this.  
16:41:36 25 And we didn't really know -- I didn't really know what



16:41:40 1 it was. And then immediately as they were grading up  
16:41:44 2 this area, I noticed that Ric-man was pushing dirt into  
16:41:48 3 this and knocked the top off, and maybe part of the top  
16:41:51 4 was already off.

16:41:52 5 Q. Of the manhole?

16:41:53 6 A. Of the manhole right here. That there was dirt  
16:41:57 7 being pushed into that. And I looked around. Being  
16:42:04 8 the engineer I am, I guess, that this certainly appears  
16:42:08 9 to anybody, this is the low area of this whole region.

16:42:14 10 Q. The manhole area?

16:42:15 11 A. The manhole area.

16:42:17 12 And I'm thinking that this must be an underdrain  
16:42:27 13 for this whole region. And, you know, maybe we better  
16:42:32 14 take care of this. And I first noticed that. I don't  
16:42:40 15 know whether I talked with Ric-man or Christy, but we  
16:42:45 16 mentioned it. That was the first I saw -- really  
16:42:55 17 noticed of that manhole.

16:42:56 18 Q. And was that -- tell us timing-wise, was that  
16:42:59 19 before they were excavating behind Cambridge subdivision  
16:43:04 20 and installing that big water main?

16:43:06 21 A. Yes. Yes. That was grading off prior to so  
16:43:10 22 that they could bring the --

16:43:13 23 Q. So tell the jury what you did about what you saw  
16:43:16 24 on the manhole.

16:43:17 25 A. Well, I believe I talked to Christy, to

16:43:21 1 Ric-man's -- someone with Ric-man or perhaps Joe  
16:43:27 2 Crandall, the inspector.

16:43:30 3 Q. He's an inspector for the City?

16:43:32 4 A. Yes.

16:43:33 5 Q. What did you tell them?

16:43:35 6 A. I'm not sure which one I did, Marv, because this  
16:43:38 7 is two years ago now. But we did make a fuss about,  
16:43:42 8 Hey, maybe this thing has some value to the properties  
16:43:45 9 over here. And, you know, we don't blame you for the  
16:43:51 10 whole thing, the railroad had neglected it before. And  
16:43:55 11 I think I had seen that the thing was -- the top was  
16:43:59 12 knocked around or something. But it was worse because  
16:44:02 13 of this grading. You're letting it -- the dirt go  
16:44:06 14 right down in the manhole. Later on I found that there  
16:44:09 15 was a cross pipe in there, and that was right where the  
16:44:12 16 dirt was going. And in the brush, because they were  
16:44:16 17 putting -- some of this brush was still around, and they  
16:44:19 18 were -- some of the limbs -- I think we've got pictures  
16:44:22 19 of that someplace. So that was the first I really got  
16:44:27 20 into this cross drain and this manhole that is tied to  
16:44:33 21 it.

16:44:40 22 Do you want me to keep going on this drainage  
16:44:43 23 thing?

16:44:44 24 MR. ROBON: No, never mind. I found it.

16:44:52 25 Q. I'm looking at Exhibit 56.

16:44:58 1 A. Yes.

16:44:59 2 Q. Is this the manhole after it was repaired, or is  
16:45:03 3 this the manhole before it was repaired?

16:45:06 4 A. This manhole has been repaired from the time I  
16:45:12 5 was talking about it.

16:45:13 6 Q. Okay. Is this the manhole that we're talking  
16:45:16 7 about?

16:45:17 8 A. This is the manhole that we were talking about.  
16:45:19 9 And that's me. And this is the manhole. And  
16:45:25 10 somewhere along the line I thought we were doing pretty  
16:45:27 11 good because Ric-man or somebody went and repaired the  
16:45:30 12 thing. And --

16:45:33 13 Q. So could you tell us the timing of this picture?  
16:45:36 14 Was this before or after the 66-inch water main was  
16:45:43 15 behind the Cambridge subdivision?

16:45:47 16 A. I can't tell.

16:45:53 17 Q. That's you in the picture?

16:45:55 18 A. Yeah. But I can't really -- I can't really say.  
16:46:00 19 I can't tell the -- well, what's around it?

16:46:05 20 THE COURT: No date on the photo?

16:46:07 21 MR. ROBON: No date on the photo, Your  
16:46:09 22 Honor.

16:46:09 23 THE COURT: Thank you.

16:46:09 24 A. How much longer on your direct, please?

16:46:13 25 MR. ROBON: I'm going to be quite some time,

16:46:16 1 Your Honor.

16:46:16 2 THE COURT: Define "quite some time."

16:46:18 3 MR. ROBON: Hour. I'll try to make it 45  
16:46:24 4 minutes. I didn't realize what time it was.

16:46:28 5 THE COURT: I want to break in the next 15  
16:46:30 6 minutes. So whenever you get to a breaking point, let  
16:46:34 7 me know.

16:46:36 8 MR. ROBON: Sure.

16:46:37 9 Q. You say Ric-man repaired the manhole, and you're  
16:46:41 10 looking at the repair?

16:46:42 11 A. Right. Sometime before they did the water main  
16:46:46 12 they -- I believe they fixed -- they put the top piece  
16:46:51 13 back up on here and fixed up -- put the lid back on top.

16:46:57 14 Q. Okay. And --

16:46:58 15 A. But I can't tell from here whether the water main  
16:47:00 16 was already in here or not.

16:47:02 17 Q. Okay. Well, what I want to know is tell the jury  
16:47:06 18 whether or not you looked into the manhole to see what  
16:47:09 19 was down at the bottom?

16:47:10 20 A. Yes.

16:47:12 21 Q. What did you see?

16:47:14 22 A. I saw the three pipes, the two pipes coming in,  
16:47:20 23 and the one pipe going out.

16:47:23 24 Q. And where did the pipe -- the emptying pipe,  
16:47:26 25 where did that go?

16:47:27 1 A. That went across the railroad, the old railroad  
16:47:29 2 bed.

16:47:31 3 Q. And how could you tell that?

16:47:35 4 A. Just the way it was pointed, and then early on we  
16:47:41 5 went -- or I went and I thought we took pictures, but I  
16:47:46 6 guess we didn't, somewhere we could see the other end  
16:47:51 7 coming out in the center ditch of the railroad. We  
16:47:54 8 could see both ends, or I could see both ends even  
16:47:57 9 though the one in the center ditch was down, way down in  
16:48:00 10 the bottom and it was all tangled up, and you couldn't  
16:48:05 11 really, without digging it out ourselves, you couldn't  
16:48:08 12 really tell how -- other than identify it as this same  
16:48:13 13 type, 24-inch VC, we call it, vitrified clay pipe  
16:48:20 14 installation. I also went down in there.

16:48:25 15 Q. Physically in the manhole?

16:48:26 16 A. I went physically in the manhole and we took --  
16:48:31 17 because it's -- this is from the top of this manhole  
16:48:38 18 down to the bottom is about -- it's about eight feet  
16:48:41 19 deep.

16:48:41 20 Q. Could you come back over here for a moment,  
16:48:44 21 please.

16:49:14 22 When you went down to the bottom of the manhole,  
16:49:17 23 did you discover that there were these other drains  
16:49:23 24 literally along the railroad draining into it?

16:49:25 25 A. Yes. I was -- I was in this manhole more than

16:49:29 1 once. Meaning, you know, to go down in it with your  
16:49:36 2 head and look. The one time I went down and looked,  
16:49:43 3 and I had a little rake, and I got the leaves and stuff  
16:49:46 4 out so I could identify this pipe was still there, this  
16:49:50 5 pipe was still coming in. And I had -- I had a mirror  
16:49:54 6 on Lori's little dust pan --

16:50:02 7 Q. Lori is your daughter-in-law?

16:50:03 8 A. Lori is my daughter-in-law who lives here.

16:50:06 9 And I had a little mirror on there. Because  
16:50:09 10 it's seven or eight feet deep down at the bottom of it.  
16:50:14 11 So I could see the end of this pipe coming in and how  
16:50:18 12 filled with debris it was, which was about two thirds  
16:50:22 13 full of debris. There was a lot of debris in it. But  
16:50:25 14 it still appeared, at least from this end, that it was  
16:50:28 15 working.

16:50:29 16 Q. Now, my next question, on Exhibit Number 6, this  
16:50:32 17 is a graphic with an overlay of the subdivision and the  
16:50:35 18 railroad and the ditches and the manhole. Did you help  
16:50:39 19 a graphic artist prepare this to scale?

16:50:42 20 A. Yes.

16:50:42 21 Q. And does this exhibit accurately depict what is  
16:50:47 22 currently there physically today?

16:50:50 23 A. Yes. We tried to do that as best we could.

16:50:56 24 Q. Now, after you discovered this manhole and you  
16:51:02 25 felt that the water drained into this railroad ditch

16:51:08 1 right here, what communications did you have with the  
16:51:15 2 contracting firm or the City of Toledo?

16:51:22 3 A. Well, early on when I looked into this manhole,  
16:51:29 4 before I went down there with a mirror or anything, the  
16:51:32 5 question arose: Which way does its go? Maybe the  
16:51:40 6 drain goes this way. And early on I asked Ray Huber.  
16:51:48 7 Christy came out, and we had the contractor there --

16:51:52 8 Q. She had a meeting with everybody?

16:51:53 9 A. We had a meeting with everybody.

16:51:54 10 Q. Did you given an opinion?

16:51:56 11 A. Yes.

16:51:57 12 Q. What was your opinion at that time when you had  
16:51:59 13 the meeting with all these engineers?

16:52:02 14 A. I thought we needed this -- we needed this drain  
16:52:08 15 for this whole area and that it went this way.

16:52:11 16 Q. It went across, underneath the water main?

16:52:15 17 A. It went this way (motioning). But I was not --  
16:52:23 18 I hadn't really given this thing a lot of thought,  
16:52:27 19 hadn't really been down there to see exactly if these  
16:52:32 20 pipes were there and whatnot. So we came out, and we  
16:52:35 21 met. We met on-site. And we talked about this thing.

16:52:40 22 Ray Huber even brought a little drawing that the  
16:52:44 23 County had that showed that it was a drain that was not  
16:52:51 24 on the City of Toledo drawings. Certainly a main drain  
16:52:58 25 like this should be, but it wasn't. And Ray at first,

16:53:04 1 all he said was basically, hey, I got this drawing.  
16:53:08 2 His assistant gave it to him. He was just bringing it  
16:53:12 3 out there to show us. And he confirmed that, yes,  
16:53:16 4 there was a drain pipe there, but had not himself at  
16:53:20 5 that time, he didn't really know which way it went or  
16:53:24 6 anything about this thing. Said, hey, this was a City  
16:53:28 7 of Toledo project, and my office is not really involved  
16:53:33 8 in it.

16:53:33 9 Q. "My office" being Ray's office?

16:53:35 10 A. Being the county engineer's office.

16:53:37 11 Q. So he came out, and we had that initial meeting.  
16:53:46 12 And then I went back. And I don't know exactly the  
16:53:53 13 time, but I went back with his assistant eventually and  
16:54:00 14 we got it kind of confirmed: Yes, that it does go this  
16:54:05 15 way, this type of 24-inch cross drain, according to his  
16:54:11 16 assistant, who is the drainage engineer for Wood County.  
16:54:15 17 He said this type of drain, yes, would drain about 40  
16:54:19 18 acres. And yes, this kind of matches with the part of  
16:54:24 19 this 100 acres that's in this drainage area. Part of  
16:54:28 20 that would be going in here. He even said that --

16:54:31 21 MR. BAHRET: Objection.

16:54:32 22 Q. Let me ask another question.

16:54:34 23 THE COURT: Thank you.

16:54:34 24 BY MR. ROBON:

16:54:35 25 Q. When we talk about the water draining towards the



16:54:37 1 manhole, have you seen what they call a topo map,  
16:54:42 2 topography?

16:54:46 3 A. Yes.

16:54:47 4 Q. Would you tell the jury, where are the high spots  
16:54:50 5 on Exhibit Number 6, and where the low spots?

16:54:55 6 A. Engineers, when you do a water basin study like  
16:55:06 7 this, the main tool you use is this U.S. quad sheet,  
16:55:14 8 which is a contour map. And the contour map, which I  
16:55:18 9 think we've got someplace, contour maps show contours  
16:55:22 10 running this way, that this was the low area of this  
16:55:25 11 whole region, both sides, that this came down here --

16:55:28 12 Q. Towards the manhole?

16:55:30 13 A. -- towards the manhole. And this was obviously,  
16:55:33 14 you know, the manhole, the pipe that drained this area  
16:55:38 15 across to -- this is a grassy creek, I guess they call  
16:55:43 16 it, over here and down to Rossford.

16:55:49 17 Q. My next question is once you informed everybody  
16:55:51 18 that you thought that active pipe was draining this  
16:55:55 19 area, what next happened with the City of Toledo?

16:56:01 20 A. Well, I talked to Christy Soncrant, and I guess  
16:56:10 21 her main --

16:56:11 22 Q. Just what happened? Concise. Everyone wants to  
16:56:17 23 go home.

16:56:17 24 A. Okay. Basically she indicated that she wasn't  
16:56:28 25 sure the county engineer -- he wasn't really tuned in on

16:56:32 1 this thing. He might not know -- she led me to believe  
16:56:37 2 the contract --

16:56:39 3 THE COURT REPORTER: Excuse me?

16:56:44 4 THE COURT: If you can take your seat now if  
16:56:46 5 you're done with the map, that would help, with the  
16:56:46 6 microphone.

16:56:46 7 BY MR. ROBON:

16:57:05 8 Q. The contract said he did not need it?

16:57:08 9 A. That the contract said -- I'll correct that, that  
16:57:11 10 it wasn't needed. That it was -- that it was clogged  
16:57:15 11 up. That it was clogged up, that -- but she told me  
16:57:19 12 that, too, hey, you couldn't ever prove it's needed, and  
16:57:25 13 that we can always put it back. And I mentioned as far  
16:57:31 14 as I was concerned, I'm still convinced that there's a  
16:57:35 15 problem putting this back now with the water main in  
16:57:37 16 there. But that was the end of -- her last thing to me  
16:57:44 17 was that, you know, we can always put it back later.

16:57:50 18 Q. But they ignored your --

16:57:52 19 MR. BAHRET: Objection.

16:57:53 20 Q. -- recommendation?

16:57:54 21 THE COURT: Sustained.

16:57:55 22 BY MR. ROBON:

16:57:55 23 Q. I'll rephrase. What did they do with your  
16:57:59 24 recommendations?

16:58:00 25 A. They went nowhere.

16:58:01 1 MR. ROBON: Your Honor, I'm at a good  
16:58:03 2 breaking point.

16:58:04 3 THE COURT: We're going to go somewhere.  
16:58:06 4 We're going to go home. Ladies and gentlemen, what  
16:58:08 5 time would you like to start tomorrow morning?

16:58:13 6 THE JUROR: 10:30. I want to see my  
16:58:15 7 granddaughter's concert. She's moving.

16:58:18 8 THE COURT: Is the concert tonight?

16:58:20 9 THE JUROR: No, tomorrow morning at 9:00.  
16:58:22 10 She's moving to the state of Washington in two weeks.  
16:58:25 11 And she just moved here from Britain a year ago.

16:58:28 12 THE COURT: Do you want to borrow my video  
16:58:30 13 camera?

16:58:31 14 THE JUROR: No. I want to see it.

16:58:32 15 THE COURT: That's not an option. I  
16:58:36 16 appreciate that. If we start that late, I'm afraid our  
16:58:41 17 timetable will become askew.

16:58:45 18 THE JUROR: Can't you start without me and I  
16:58:47 19 can catch up?

16:58:48 20 THE COURT: It's a nice thought.

16:58:50 21 MR. BAHRET: I've never heard that question  
16:58:52 22 asked.

16:58:53 23 THE COURT: I'm afraid I might start a  
16:58:55 24 stampede. Other than 10:30, what time would you like  
16:59:01 25 to start tomorrow morning?

16:59:05 1 THE JUROR: 8:00.

16:59:06 2 THE COURT: Can you all be here at 8:00?

16:59:08 3 Counsel, you'll need to be here before 8:00 so you're  
16:59:12 4 set and ready to go and we can walk in at 8:00.

16:59:15 5 I'm sending you home. Some of you I'm  
16:59:18 6 sending home not very happy, I understand. I remind  
16:59:23 7 you you're going to again get questioned when you walk  
16:59:25 8 in the doors. I ask you to please remember the rules.  
16:59:28 9 We're in recess until 8:00 tomorrow morning.

17:00:41 10 MR. ROBON: I wanted to proffer what Mr.  
17:00:44 11 Stawinski would have said about this steel.

17:00:49 12 THE COURT: Sure. Bob, do you want to  
17:00:51 13 listen in to the proffer?

17:00:54 14 MR. BAHRET: Sure. Yes.

17:00:57 15 MR. ROBON: Let the record indicate there  
17:00:59 16 was an objection to Mr. Stawinski being asked about  
17:01:04 17 flying debris, and we would have offered Exhibit Number  
17:01:08 18 10, which is part of a steel coil from a rail car that  
17:01:12 19 he would have testified that when the trees were being  
17:01:16 20 cleared by the City's contractors, he went out, forgot  
17:01:22 21 to get his paper or mail, and he heard a cling, and a  
17:01:27 22 piece of debris flew into the lot next to him. He  
17:01:31 23 retrieved it. It's Exhibit 10. And we wanted to show  
17:01:37 24 the recklessness of the City of Toledo, and the  
17:01:41 25 contractor's type of equipment that they were using was

17:01:45 1 inappropriate in a subdivision where -- in a residence  
17:01:50 2 with kids, especially when the machine itself said "Stay  
17:01:53 3 back 300 feet."

17:01:54 4 MR. WATKINS: It was not the City of Toledo  
17:01:56 5 doing the work.

17:01:57 6 MR. BAHRET: And besides, he testified it  
17:01:59 7 wasn't the feller buncher that had the label on it. He  
17:02:04 8 said it was the hydro-axe, which doesn't stay back 300  
17:02:09 9 feet. So Marv is intentionally mixing up his pictures.  
17:02:13 10 The City of Toledo did not pick nor supervise the  
17:02:17 11 subcontractor of Ric-man to do the clearing.  
17:02:20 12 Vermillion testified they were entirely under the  
17:02:22 13 control of Ric-man as to how much to clear. That's in  
17:02:26 14 the record. And this individual that claims he almost  
17:02:31 15 got hit by this device is not a party to this case, and  
17:02:34 16 it has no relevance to any actions of the City of  
17:02:37 17 Toledo.

17:02:38 18 THE COURT: The Court indicated earlier off  
17:02:40 19 the record that it felt that any possible relevance, and  
17:02:44 20 frankly, I still struggle to see the relevance of this  
17:02:49 21 testimony or exhibit to the issues pending in this  
17:02:51 22 trial, is clearly outweighed by prejudice and confusion  
17:02:56 23 to the jury. There is no claim for personal injury or  
17:03:01 24 infliction of emotional distress. The issue is, as  
17:03:05 25 I've been listening to it, and as I understand it, was

17:03:08 1 there an encroachment? Was there a trespass? And if  
17:03:12 2 so, what are the damages attributable to that? And this  
17:03:15 3 goes beyond the scope of those issues. So that was the  
17:03:19 4 reason for my ruling and excluding that testimony.

17:03:23 5 MR. ROBON: Thanks, Judge.

17:03:24 6 THE COURT: Thank you all.

7 (Adjourned at 5:03 p.m.)

8 - - -

9

10 C E R T I F I C A T E

11

12 I certify that the foregoing is a correct transcript  
13 from the record of proceedings in the above-entitled  
14 matter.

15

16 /s Tracy L. Spore\_\_\_\_\_

17 Tracy L. Spore, RMR, CRR

\_\_\_\_\_

Date

18

19

20

21

22

23

24

25

## I N D E X

CHRISTY SONCRANT, CROSS-EXAMINATION	175
BY MR. ROBON:	
RAY HUBER, DIRECT EXAMINATION	187
BY MR. ROBON:	
RAY HUBER, CROSS-EXAMINATION	195
BY MR. BAHRET:	
RAY HUBER, REDIRECT EXAMINATION	224
BY MR. ROBON:	
RAY HUBER, RECROSS-EXAMINATION	232
BY MR. BAHRET:	
NICK NIGH, DIRECT EXAMINATION	233
BY MR. ROBON:	
NICK NIGH, CROSS-EXAMINATION	246
BY MR. BAHRET:	
NICK NIGH, REDIRECT EXAMINATION	271
BY MR. ROBON:	
NICK NIGH, RECROSS-EXAMINATION	277
BY MR. BAHRET:	
JOHN MCCARTHY, DIRECT EXAMINATION	281
BY MR. ROBON:	

<b>\$</b>	<b>2007</b> - 286:9 <b>2008</b> - 174:5 <b>224</b> - 324:8 <b>232</b> - 324:10 <b>233</b> - 324:12 <b>24</b> - 230:14 <b>24-inch</b> - 188:1, 190:17, 229:15, 314:13, 317:15 <b>243-3607</b> - 174:22 <b>246</b> - 324:14 <b>250</b> - 300:9 <b>27</b> - 183:11 <b>271</b> - 324:16 <b>277</b> - 324:18 <b>27th</b> - 247:4, 247:5 <b>281</b> - 324:20	<b>900</b> - 238:3 <b>92</b> - 245:1, 291:1 <b>97</b> - 184:18 <b>9:00</b> - 320:9	246:18 <b>afterwards</b> - 228:9, 267:7, 281:17, 299:11 <b>age</b> - 251:7, 251:9 <b>aged</b> - 239:3 <b>agencies</b> - 235:23 <b>ago</b> - 202:23, 215:2, 227:2, 247:17, 300:4, 311:7, 320:11 <b>agree</b> - 199:3, 208:12, 216:20, 217:21, 217:25, 218:6, 249:20, 253:7, 255:12, 256:7, 259:17, 260:22, 261:2, 261:11, 261:25, 262:14, 266:2, 266:4, 277:11, 293:25 <b>agreed</b> - 190:6, 293:18, 306:18 <b>agreeing</b> - 205:9 <b>ahead</b> - 208:19, 219:19 <b>alignment</b> - 273:12, 273:22 <b>alignments</b> - 288:21 <b>allow</b> - 200:6 <b>allowed</b> - 219:17, 221:22, 234:20 <b>alluding</b> - 305:24 <b>almost</b> - 322:14 <b>alone</b> - 218:4, 263:8 <b>alongside</b> - 194:16 <b>alter</b> - 218:7, 253:7 <b>altered</b> - 218:10, 218:22, 219:7, 252:21 <b>Alvie</b> - 211:13, 226:22, 227:18 <b>angle</b> - 292:15, 293:19, 293:21 <b>annulet</b> - 217:14 <b>Answer</b> - 308:15 <b>answer</b> - 194:24, 200:8, 201:11, 201:25, 208:18, 209:10, 210:20, 214:7, 214:12, 215:8, 215:15, 218:14, 218:17, 219:9, 220:7, 220:8, 229:18, 231:6, 238:24, 259:21, 260:20, 263:12, 264:7, 266:18, 272:21, 279:12, 279:13, 279:17, 279:20, 288:7, 301:16, 303:20 <b>answered</b> - 210:19, 229:5, 262:4 <b>answering</b> - 306:11 <b>Anytime</b> - 260:1 <b>anyway</b> - 210:10, 220:10 <b>apart</b> - 289:22 <b>apologize</b> - 176:9 <b>appear</b> - 210:15, 276:21 <b>appearance</b> - 252:19 <b>Appearances</b> - 174:12 <b>appeared</b> - 189:2, 189:12, 189:18, 315:14 <b>appreciate</b> - 241:22, 279:17, 320:16 <b>apprentice</b> - 234:22 <b>apprentice-type</b> - 234:22 <b>approach</b> - 183:19, 184:3 <b>approval</b> - 195:13 <b>approved</b> - 194:9, 235:21 <b>approving</b> - 206:3, 206:6 <b>approximation</b> - 268:24 <b>April</b> - 227:12, 236:8, 268:5, 268:13, 284:25, 286:7, 286:21, 291:22 <b>area</b> - 175:14, 188:17, 194:5, 194:17, 205:6, 205:18, 207:13, 216:21, 217:6, 226:5, 232:16, 232:19, 238:3, 240:1, 240:16, 240:17, 240:19, 240:23, 240:24, 241:4,
<b>'06</b> - 180:22, 183:11, 184:10, 188:17, 193:9, 205:11, 284:25, 285:1, 294:7 <b>'07</b> - 205:12 <b>'80s</b> - 282:10 <b>'90s</b> - 282:10	<b>3</b> <b>3</b> - 174:9 <b>30</b> - 207:13, 230:12, 281:11, 282:5 <b>300</b> - 300:9, 322:3, 322:8 <b>31</b> - 201:3 <b>33</b> - 260:14, 261:1 <b>34</b> - 260:13 <b>37</b> - 178:2, 193:7 <b>3:06-cv-2950</b> - 174:4	<b>A</b> <b>A12</b> - 269:5 <b>A13</b> - 262:12, 263:4 <b>A17</b> - 278:11 <b>A2</b> - 278:6 <b>A3</b> - 278:7 <b>A8</b> - 265:11 <b>abandoned</b> - 189:14, 214:22, 228:10 <b>ability</b> - 197:7, 247:6, 272:1 <b>able</b> - 201:25, 227:24, 231:23, 260:17, 279:5, 287:17 <b>above-entitled</b> - 323:13 <b>abreast</b> - 182:20 <b>absolutely</b> - 251:24, 255:13 <b>abuts</b> - 250:3 <b>abutted</b> - 179:23 <b>abutting</b> - 207:14, 274:13 <b>accept</b> - 265:16 <b>acceptable</b> - 200:14, 263:7, 263:13 <b>accepted</b> - 259:15, 263:20, 264:1, 264:5, 264:8, 264:14 <b>access</b> - 295:18 <b>accomplish</b> - 230:3 <b>accomplished</b> - 208:23 <b>according</b> - 194:19, 317:15 <b>accumulative</b> - 198:7 <b>accuracy</b> - 293:20 <b>accurate</b> - 175:13, 245:18, 245:25, 246:4, 290:6, 305:2 <b>accurately</b> - 175:20, 247:6, 288:25, 292:17, 315:21 <b>acknowledge</b> - 181:12, 186:11, 186:15, 217:25 <b>acknowledging</b> - 306:21 <b>acres</b> - 317:18, 317:19 <b>action</b> - 183:6 <b>actions</b> - 322:16 <b>active</b> - 188:3, 288:24, 318:18 <b>actual</b> - 200:17, 239:9 <b>adding</b> - 198:8 <b>addition</b> - 287:2 <b>additional</b> - 220:4 <b>address</b> - 215:19 <b>adjacent</b> - 187:21, 204:16, 220:2 <b>adjoining</b> - 204:4 <b>Adjournd</b> - 323:7 <b>adjusted</b> - 296:15 <b>administration</b> - 282:18, 302:22, 302:23, 304:8, 305:16 <b>admission</b> - 304:4, 304:5 <b>admissions</b> - 304:7 <b>admit</b> - 178:24 <b>advance</b> - 185:18 <b>advise</b> - 191:24, 199:23, 200:9 <b>advised</b> - 188:22, 191:14, 202:11, 297:22 <b>aerial</b> - 175:9, 175:15, 216:5 <b>affect</b> - 220:5, 300:14 <b>affected</b> - 267:18 <b>affirmatively</b> - 212:2 <b>afraid</b> - 320:16, 320:23 <b>afternoon</b> - 187:6, 246:17,	
<b>/</b> <b>/s</b> - 323:16	<b>4</b> <b>4</b> - 180:21 <b>40</b> - 230:8, 317:17 <b>41</b> - 243:18, 287:11 <b>419</b> - 174:16, 174:20, 174:22 <b>43528-1844</b> - 174:19 <b>43537</b> - 174:15 <b>43624</b> - 174:22 <b>45</b> - 195:9, 224:16, 313:3	<b>246:18</b> <b>afterwards</b> - 228:9, 267:7, 281:17, 299:11 <b>age</b> - 251:7, 251:9 <b>aged</b> - 239:3 <b>agencies</b> - 235:23 <b>ago</b> - 202:23, 215:2, 227:2, 247:17, 300:4, 311:7, 320:11 <b>agree</b> - 199:3, 208:12, 216:20, 217:21, 217:25, 218:6, 249:20, 253:7, 255:12, 256:7, 259:17, 260:22, 261:2, 261:11, 261:25, 262:14, 266:2, 266:4, 277:11, 293:25 <b>agreed</b> - 190:6, 293:18, 306:18 <b>agreeing</b> - 205:9 <b>ahead</b> - 208:19, 219:19 <b>alignment</b> - 273:12, 273:22 <b>alignments</b> - 288:21 <b>allow</b> - 200:6 <b>allowed</b> - 219:17, 221:22, 234:20 <b>alluding</b> - 305:24 <b>almost</b> - 322:14 <b>alone</b> - 218:4, 263:8 <b>alongside</b> - 194:16 <b>alter</b> - 218:7, 253:7 <b>altered</b> - 218:10, 218:22, 219:7, 252:21 <b>Alvie</b> - 211:13, 226:22, 227:18 <b>angle</b> - 292:15, 293:19, 293:21 <b>annulet</b> - 217:14 <b>Answer</b> - 308:15 <b>answer</b> - 194:24, 200:8, 201:11, 201:25, 208:18, 209:10, 210:20, 214:7, 214:12, 215:8, 215:15, 218:14, 218:17, 219:9, 220:7, 220:8, 229:18, 231:6, 238:24, 259:21, 260:20, 263:12, 264:7, 266:18, 272:21, 279:12, 279:13, 279:17, 279:20, 288:7, 301:16, 303:20 <b>answered</b> - 210:19, 229:5, 262:4 <b>answering</b> - 306:11 <b>Anytime</b> - 260:1 <b>anyway</b> - 210:10, 220:10 <b>apart</b> - 289:22 <b>apologize</b> - 176:9 <b>appear</b> - 210:15, 276:21 <b>appearance</b> - 252:19 <b>Appearances</b> - 174:12 <b>appeared</b> - 189:2, 189:12, 189:18, 315:14 <b>appreciate</b> - 241:22, 279:17, 320:16 <b>apprentice</b> - 234:22 <b>apprentice-type</b> - 234:22 <b>approach</b> - 183:19, 184:3 <b>approval</b> - 195:13 <b>approved</b> - 194:9, 235:21 <b>approving</b> - 206:3, 206:6 <b>approximation</b> - 268:24 <b>April</b> - 227:12, 236:8, 268:5, 268:13, 284:25, 286:7, 286:21, 291:22 <b>area</b> - 175:14, 188:17, 194:5, 194:17, 205:6, 205:18, 207:13, 216:21, 217:6, 226:5, 232:16, 232:19, 238:3, 240:1, 240:16, 240:17, 240:19, 240:23, 240:24, 241:4,	
<b>1</b> <b>1</b> - 175:9, 175:23, 193:9 <b>1,000</b> - 289:22 <b>10</b> - 178:9, 251:25, 252:1, 291:20, 292:18, 294:7, 294:8, 321:18, 321:23 <b>100</b> - 174:14, 181:16, 244:7, 253:4, 288:25, 295:7, 317:19 <b>101</b> - 293:12 <b>104</b> - 182:9 <b>105</b> - 183:21, 184:1 <b>10:30</b> - 320:6, 320:24 <b>10th</b> - 307:17 <b>11</b> - 251:25, 252:1 <b>12</b> - 198:9, 296:20, 300:14 <b>13</b> - 198:9, 219:9, 300:14 <b>136</b> - 234:4 <b>14</b> - 252:21, 300:13, 300:14 <b>140</b> - 253:4 <b>15</b> - 178:3, 178:8, 182:10, 193:8, 194:17, 205:7, 226:25, 239:18, 249:12, 252:21, 268:19, 269:5, 269:16, 284:7, 294:10, 294:11, 300:13, 313:5 <b>150</b> - 176:13 <b>16</b> - 194:17, 205:7, 249:12, 252:21, 269:17, 269:18, 294:10, 300:13 <b>1701</b> - 174:15 <b>1716</b> - 174:21 <b>175</b> - 324:2 <b>18</b> - 179:22 <b>187</b> - 324:4 <b>19</b> - 180:6, 180:19, 182:10, 184:10 <b>195</b> - 324:6 <b>1992</b> - 234:25 <b>1:05</b> - 175:1	<b>5</b> <b>50</b> - 230:8 <b>500</b> - 289:24 <b>56</b> - 311:25 <b>5:03</b> - 323:7	<b>246:18</b> <b>afterwards</b> - 228:9, 267:7, 281:17, 299:11 <b>age</b> - 251:7, 251:9 <b>aged</b> - 239:3 <b>agencies</b> - 235:23 <b>ago</b> - 202:23, 215:2, 227:2, 247:17, 300:4, 311:7, 320:11 <b>agree</b> - 199:3, 208:12, 216:20, 217:21, 217:25, 218:6, 249:20, 253:7, 255:12, 256:7, 259:17, 260:22, 261:2, 261:11, 261:25, 262:14, 266:2, 266:4, 277:11, 293:25 <b>agreed</b> - 190:6, 293:18, 306:18 <b>agreeing</b> - 205:9 <b>ahead</b> - 208:19, 219:19 <b>alignment</b> - 273:12, 273:22 <b>alignments</b> - 288:21 <b>allow</b> - 200:6 <b>allowed</b> - 219:17, 221:22, 234:20 <b>alluding</b> - 305:24 <b>almost</b> - 322:14 <b>alone</b> - 218:4, 263:8 <b>alongside</b> - 194:16 <b>alter</b> - 218:7, 253:7 <b>altered</b> - 218:10, 218:22, 219:7, 252:21 <b>Alvie</b> - 211:13, 226:22, 227:18 <b>angle</b> - 292:15, 293:19, 293:21 <b>annulet</b> - 217:14 <b>Answer</b> - 308:15 <b>answer</b> - 194:24, 200:8, 201:11, 201:25, 208:18, 209:10, 210:20, 214:7, 214:12, 215:8, 215:15, 218:14, 218:17, 219:9, 220:7, 220:8, 229:18, 231:6, 238:24, 259:21, 260:20, 263:12, 264:7, 266:18, 272:21, 279:12, 279:13, 279:17, 279:20, 288:7, 301:16, 303:20 <b>answered</b> - 210:19, 229:5, 262:4 <b>answering</b> - 306:11 <b>Anytime</b> - 260:1 <b>anyway</b> - 210:10, 220:10 <b>apart</b> - 289:22 <b>apologize</b> - 176:9 <b>appear</b> - 210:15, 276:21 <b>appearance</b> - 252:19 <b>Appearances</b> - 174:12 <b>appeared</b> - 189:2, 189:12, 189:18, 315:14 <b>appreciate</b> - 241:22, 279:17, 320:16 <b>apprentice</b> - 234:22 <b>apprentice-type</b> - 234:22 <b>approach</b> - 183:19, 184:3 <b>approval</b> - 195:13 <b>approved</b> - 194:9, 235:21 <b>approving</b> - 206:3, 206:6 <b>approximation</b> - 268:24 <b>April</b> - 227:12, 236:8, 268:5, 268:13, 284:25, 286:7, 286:21, 291:22 <b>area</b> - 175:14, 188:17, 194:5, 194:17, 205:6, 205:18, 207:13, 216:21, 217:6, 226:5, 232:16, 232:19, 238:3, 240:1, 240:16, 240:17, 240:19, 240:23, 240:24, 241:4,	
<b>2</b> <b>20</b> - 174:5, 179:4, 230:12 <b>20,000</b> - 235:3 <b>200</b> - 192:8, 192:9 <b>2001</b> - 235:5, 274:9, 274:22 <b>2004</b> - 248:7 <b>2005</b> - 179:13, 179:24, 284:13 <b>2006</b> - 175:10, 176:3, 187:25, 189:12, 193:23, 195:11, 227:2, 236:4, 236:7, 236:8, 248:8, 284:14, 292:18, 307:21	<b>6</b> <b>6</b> - 189:9, 309:18, 315:16, 318:5 <b>60</b> - 180:20, 230:8, 295:7, 295:8, 295:9 <b>60-some</b> - 230:19 <b>600</b> - 295:10 <b>61</b> - 184:9, 184:16, 203:2 <b>65</b> - 219:25 <b>66-inch</b> - 308:24, 312:14	<b>246:18</b> <b>afterwards</b> - 228:9, 267:7, 281:17, 299:11 <b>age</b> - 251:7, 251:9 <b>aged</b> - 239:3 <b>agencies</b> - 235:23 <b>ago</b> - 202:23, 215:2, 227:2, 247:17, 300:4, 311:7, 320:11 <b>agree</b> - 199:3, 208:12, 216:20, 217:21, 217:25, 218:6, 249:20, 253:7, 255:12, 256:7, 259:17, 260:22, 261:2, 261:11, 261:25, 262:14, 266:2, 266:4, 277:11, 293:25 <b>agreed</b> - 190:6, 293:18, 306:18 <b>agreeing</b> - 205:9 <b>ahead</b> - 208:19, 219:19 <b>alignment</b> - 273:12, 273:22 <b>alignments</b> - 288:21 <b>allow</b> - 200:6 <b>allowed</b> - 219:17, 221:22, 234:20 <b>alluding</b> - 305:24 <b>almost</b> - 322:14 <b>alone</b> - 218:4, 263:8 <b>alongside</b> - 194:16 <b>alter</b> - 218:7, 253:7 <b>altered</b> - 218:10, 218:22, 219:7, 252:21 <b>Alvie</b> - 211:13, 226:22, 227:18 <b>angle</b> - 292:15, 293:19, 293:21 <b>annulet</b> - 217:14 <b>Answer</b> - 308:15 <b>answer</b> - 194:24, 200:8, 201:11, 201:25, 208:18, 209:10, 210:20, 214:7, 214:12, 215:8, 215:15, 218:14, 218:17, 219:9, 220:7, 220:8, 229:18, 231:6, 238:24, 259:21, 260:20, 263:12, 264:7, 266:18, 272:21, 279:12, 279:13, 279:17, 279:20, 288:7, 301:16, 303:20 <b>answered</b> - 210:19, 229:5, 262:4 <b>answering</b> - 306:11 <b>Anytime</b> - 260:1 <b>anyway</b> - 210:10, 220:10 <b>apart</b> - 289:22 <b>apologize</b> - 176:9 <b>appear</b> - 210:15, 276:21 <b>appearance</b> - 252:19 <b>Appearances</b> - 174:12 <b>appeared</b> - 189:2, 189:12, 189:18, 315:14 <b>appreciate</b> - 241:22, 279:17, 320:16 <b>apprentice</b> - 234:22 <b>apprentice-type</b> - 234:22 <b>approach</b> - 183:19, 184:3 <b>approval</b> - 195:13 <b>approved</b> - 194:9, 235:21 <b>approving</b> - 206:3, 206:6 <b>approximation</b> - 268:24 <b>April</b> - 227:12, 236:8, 268:5, 268:13, 284:25, 286:7, 286:21, 291:22 <b>area</b> - 175:14, 188:17, 194:5, 194:17, 205:6, 205:18, 207:13, 216:21, 217:6, 226:5, 232:16, 232:19, 238:3, 240:1, 240:16, 240:17, 240:19, 240:23, 240:24, 241:4,	
<b>7</b> <b>7</b> - 239:24, 244:15, 264:23, 275:18 <b>70</b> - 230:8 <b>7050</b> - 174:19 <b>709</b> - 174:18 <b>7300</b> - 234:3	<b>7</b> <b>7</b> - 239:24, 244:15, 264:23, 275:18 <b>70</b> - 230:8 <b>7050</b> - 174:19 <b>709</b> - 174:18 <b>7300</b> - 234:3	<b>246:18</b> <b>afterwards</b> - 228:9, 267:7, 281:17, 299:11 <b>age</b> - 251:7, 251:9 <b>aged</b> - 239:3 <b>agencies</b> - 235:23 <b>ago</b> - 202:23, 215:2, 227:2, 247:17, 300:4, 311:7, 320:11 <b>agree</b> - 199:3, 208:12, 216:20, 217:21, 217:25, 218:6, 249:20, 253:7, 255:12, 256:7, 259:17, 260:22, 261:2, 261:11, 261:25, 262:14, 266:2, 266:4, 277:11, 293:25 <b>agreed</b> - 190:6, 293:18, 306:18 <b>agreeing</b> - 205:9 <b>ahead</b> - 208:19, 219:19 <b>alignment</b> - 273:12, 273:22 <b>alignments</b> - 288:21 <b>allow</b> - 200:6 <b>allowed</b> - 219:17, 221:22, 234:20 <b>alluding</b> - 305:24 <b>almost</b> - 322:14 <b>alone</b> - 218:4, 263:8 <b>alongside</b> - 194:16 <b>alter</b> - 218:7, 253:7 <b>altered</b> - 218:10, 218:22, 219:7, 252:21 <b>Alvie</b> - 211:13, 226:22, 227:18 <b>angle</b> - 292:15, 293:19, 293:21 <b>annulet</b> - 217:14 <b>Answer</b> - 308:15 <b>answer</b> - 194:24, 200:8, 201:11, 201:25, 208:18, 209:10, 210:20, 214:7, 214:12, 215:8, 215:15, 218:14, 218:17, 219:9, 220:7, 220:8, 229:18, 231:6, 238:24, 259:21, 260:20, 263:12, 264:7, 266:18, 272:21, 279:12, 279:13, 279:17, 279:20, 288:7, 301:16, 303:20 <b>answered</b> - 210:19, 229:5, 262:4 <b>answering</b> - 306:11 <b>Anytime</b> - 260:1 <b>anyway</b> - 210:10, 220:10 <b>apart</b> - 289:22 <b>apologize</b> - 176:9 <b>appear</b> - 210:15, 276:21 <b>appearance</b> - 252:19 <b>Appearances</b> - 174:12 <b>appeared</b> - 189:2, 189:12, 189:18, 315:14 <b>appreciate</b> - 241:22, 279:17, 320:16 <b>apprentice</b> - 234:22 <b>apprentice-type</b> - 234:22 <b>approach</b> - 183:19, 184:3 <b>approval</b> - 195:13 <b>approved</b> - 194:9, 235:21 <b>approving</b> - 206:3, 206:6 <b>approximation</b> - 268:24 <b>April</b> - 227:12, 236:8, 268:5, 268:13, 284:25, 286:7, 286:21, 291:22 <b>area</b> - 175:14, 188:17, 194:5, 194:17, 205:6, 205:18, 207:13, 216:21, 217:6, 226:5, 232:16, 232:19, 238:3, 240:1, 240:16, 240:17, 240:19, 240:23, 240:24, 241:4,	
<b>8</b> <b>8</b> - 183:11, 183:19, 245:24 <b>861-7800</b> - 174:20 <b>897-6500</b> - 174:16 <b>8:00</b> - 321:1, 321:2, 321:3, 321:4, 321:9	<b>8</b> <b>8</b> - 183:11, 183:19, 245:24 <b>861-7800</b> - 174:20 <b>897-6500</b> - 174:16 <b>8:00</b> - 321:1, 321:2, 321:3,		



<p>241:11, 241:12, 242:21, 242:22, 252:13, 255:21, 262:17, 262:22, 262:24, 264:22, 264:25, 265:2, 265:4, 269:13, 269:25, 270:4, 283:12, 290:15, 290:18, 292:3, 294:13, 295:16, 295:17, 309:1, 309:5, 310:2, 310:9, 310:10, 310:11, 316:15, 317:19, 318:10, 318:14, 318:19</p> <p><b>areas</b> - 238:11, 238:12, 254:10, 271:21, 277:20, 278:4</p> <p><b>arguing</b> - 264:12, 279:17</p> <p><b>argument</b> - 276:9</p> <p><b>arose</b> - 247:11, 316:5</p> <p><b>art</b> - 256:25</p> <p><b>artist</b> - 315:19</p> <p><b>ascertained</b> - 290:22</p> <p><b>askew</b> - 320:17</p> <p><b>assistant</b> - 196:6, 282:15, 317:2, 317:13, 317:16</p> <p><b>Associates</b> - 174:17, 234:7, 234:10, 234:11, 289:16</p> <p><b>assume</b> - 186:19, 205:17, 243:1, 255:4, 255:7, 258:4, 258:7, 258:16, 265:7, 265:16</p> <p><b>assuming</b> - 191:2, 235:19, 263:6</p> <p><b>assumption</b> - 182:6, 209:15</p> <p><b>assure</b> - 210:25</p> <p><b>attached</b> - 278:20</p> <p><b>attention</b> - 185:1, 190:2, 190:4</p> <p><b>attitude</b> - 300:19, 301:5</p> <p><b>attorney</b> - 196:7</p> <p><b>attorneys</b> - 191:14</p> <p><b>attractive</b> - 196:4</p> <p><b>attributable</b> - 323:2</p> <p><b>August</b> - 184:10, 237:10, 267:6</p> <p><b>availability</b> - 275:4</p> <p><b>available</b> - 192:3, 275:8</p> <p><b>Avenue</b> - 174:21</p> <p><b>avoided</b> - 294:13</p> <p><b>aware</b> - 181:20, 191:3, 200:22, 224:16, 252:19, 257:15, 257:20, 257:21, 257:22</p> <p><b>awful</b> - 182:1</p> <p><b>axe</b> - 270:16, 270:22, 273:9, 322:8</p> <p><b>axle</b> - 253:5</p>	<p>224:8, 225:1, 225:6, 225:24, 226:14, 229:5, 229:8, 230:21, 231:1, 232:4, 232:7, 233:8, 233:10, 238:23, 240:3, 246:13, 246:16, 254:22, 255:6, 255:23, 257:16, 257:17, 260:2, 261:8, 269:1, 269:3, 269:8, 270:13, 271:5, 271:11, 271:18, 272:14, 272:19, 272:23, 275:9, 275:20, 276:2, 276:4, 276:15, 277:10, 277:22, 277:24, 280:6, 280:11, 280:16, 287:20, 288:1, 288:3, 292:19, 292:21, 294:19, 297:23, 300:21, 301:3, 301:6, 301:15, 303:2, 303:7, 303:17, 303:23, 304:5, 304:11, 304:13, 304:24, 306:6, 317:21, 319:19, 320:21, 321:14, 322:6, 324:7, 324:11, 324:15, 324:19</p> <p><b>ballpark</b> - 229:13</p> <p><b>bare</b> - 235:10</p> <p><b>Barkan</b> - 174:13</p> <p><b>Barrett</b> - 206:23</p> <p><b>barrier</b> - 232:10, 232:12, 232:15, 268:3, 268:20</p> <p><b>base</b> - 199:19, 288:20</p> <p><b>based</b> - 244:19, 249:20, 251:23</p> <p><b>basic</b> - 283:10</p> <p><b>basin</b> - 178:8, 178:10, 189:1, 189:2, 189:10, 200:12, 200:13, 210:16, 228:12, 249:3, 249:13, 318:6</p> <p><b>basins</b> - 194:15, 249:25</p> <p><b>basis</b> - 193:14, 230:1, 282:5</p> <p><b>bat</b> - 198:9</p> <p><b>Bates</b> - 175:17, 216:24, 231:21, 231:22, 249:1, 295:21</p> <p><b>beams</b> - 220:24</p> <p><b>became</b> - 286:10, 288:12</p> <p><b>become</b> - 285:25, 320:17</p> <p><b>bed</b> - 228:10, 309:6, 314:2</p> <p><b>began</b> - 212:7, 214:19, 214:25, 227:23</p> <p><b>beginning</b> - 181:2, 290:13</p> <p><b>begins</b> - 260:14</p> <p><b>behalf</b> - 304:7, 308:16</p> <p><b>Behind</b> - 294:10</p> <p><b>behind</b> - 193:7, 220:13, 226:25, 268:19, 269:5, 284:5, 310:19, 312:15</p> <p><b>belief</b> - 221:15</p> <p><b>below</b> - 197:16, 198:5, 299:22</p> <p><b>benefit</b> - 209:22</p> <p><b>best</b> - 196:10, 197:13, 213:21, 247:6, 253:18, 267:11, 292:16, 315:23</p> <p><b>better</b> - 190:22, 222:14, 259:23, 267:24, 279:19, 279:21, 310:13</p> <p><b>between</b> - 178:8, 184:19, 189:16, 191:17, 194:17, 220:25, 249:25, 253:4, 289:7</p> <p><b>beyond</b> - 205:14, 290:11, 323:3</p> <p><b>big</b> - 185:23, 205:5, 220:24, 239:9, 258:25, 259:11, 283:12, 288:14, 296:3, 310:20</p> <p><b>bigger</b> - 230:14, 245:7, 300:1</p> <p><b>Bilicki</b> - 180:21, 180:23,</p>	<p>182:13</p> <p><b>bit</b> - 179:10, 247:18, 251:5, 259:23, 262:6, 262:7, 273:18, 273:24, 278:18, 293:20</p> <p><b>black</b> - 241:17, 242:17</p> <p><b>blame</b> - 253:20, 311:9</p> <p><b>block</b> - 200:18</p> <p><b>blue</b> - 189:13</p> <p><b>Bob</b> - 306:16, 321:12</p> <p><b>book</b> - 183:19, 203:23, 207:2</p> <p><b>borrow</b> - 320:12</p> <p><b>boss</b> - 177:9, 177:11, 177:16, 182:15, 289:15</p> <p><b>bothering</b> - 183:3, 183:5, 183:7</p> <p><b>bottom</b> - 193:25, 245:10, 260:14, 279:2, 313:19, 314:10, 314:18, 314:22, 315:10</p> <p><b>boundary</b> - 219:21, 235:12, 235:13, 236:17, 236:18, 245:18</p> <p><b>box</b> - 242:2</p> <p><b>boxes</b> - 178:5</p> <p><b>boy</b> - 176:2</p> <p><b>boys</b> - 256:15</p> <p><b>bramble</b> - 238:7, 244:22, 251:7, 251:9, 253:24, 271:1, 271:2, 308:1</p> <p><b>brambles</b> - 179:23, 180:7, 237:23, 237:24, 238:13, 239:9, 240:18, 241:6, 243:7, 244:23, 244:24, 249:24, 251:4, 251:11, 253:8, 253:10, 254:11, 255:21, 256:2, 261:17, 266:2, 268:20, 268:25, 269:4, 269:11, 273:1, 273:3, 273:14, 273:20, 275:17, 275:19, 276:14, 276:25, 277:20, 278:17, 278:25, 279:5, 279:25, 289:6, 299:17, 300:5, 300:8, 307:4, 307:12, 307:13, 308:7, 308:11, 308:13, 308:18</p> <p><b>branch</b> - 299:23</p> <p><b>break</b> - 179:1, 179:8, 233:13, 233:14, 233:15, 280:21, 280:23, 313:5</p> <p><b>breaking</b> - 313:6, 320:2</p> <p><b>breath</b> - 276:6</p> <p><b>briefly</b> - 232:4</p> <p><b>bring</b> - 215:4, 298:15, 300:18, 302:1, 305:11, 310:22</p> <p><b>bringing</b> - 295:1, 317:2</p> <p><b>Britain</b> - 320:11</p> <p><b>broken</b> - 200:16, 200:19</p> <p><b>brought</b> - 253:3, 265:2, 265:5, 265:6, 287:2, 294:3, 295:5, 295:6, 295:10, 295:12, 295:15, 295:20, 297:3, 300:11, 307:24, 316:22</p> <p><b>brush</b> - 179:16, 179:23, 180:7, 226:13, 227:7, 237:23, 239:9, 240:20, 240:23, 261:3, 261:12, 261:17, 266:2, 311:16, 311:17</p> <p><b>brushy</b> - 240:16</p> <p><b>build</b> - 298:6, 300:15, 300:16</p> <p><b>building</b> - 285:17, 286:5, 294:8, 294:9, 295:2, 295:11, 298:3</p> <p><b>buildup</b> - 204:12</p> <p><b>built</b> - 197:1, 198:4, 235:5,</p>	<p>235:9, 282:18, 282:24</p> <p><b>bulldoze</b> - 267:9</p> <p><b>bulldozed</b> - 253:5, 256:14</p> <p><b>bulldozer</b> - 254:5, 255:2, 256:17, 262:25, 265:8, 265:9, 277:2, 279:6, 308:16</p> <p><b>bunch</b> - 205:8, 237:21</p> <p><b>buncher</b> - 322:7</p> <p><b>bush</b> - 227:8</p> <p><b>bushes</b> - 249:24, 253:8, 253:11, 289:6, 299:21</p> <p><b>business</b> - 229:2, 247:25, 280:3</p> <p><b>busted</b> - 299:21</p>
<b>C</b>			
<p><b>Cable</b> - 271:16</p> <p><b>cable</b> - 178:4</p> <p><b>Cable-vision</b> - 271:16</p> <p><b>Cambridge</b> - 175:9, 176:1, 176:6, 176:14, 178:3, 178:7, 179:23, 180:8, 181:3, 181:15, 186:12, 187:22, 188:23, 193:8, 194:10, 194:12, 194:20, 196:19, 200:22, 202:2, 204:3, 205:15, 206:8, 206:18, 209:3, 210:2, 212:9, 216:22, 217:21, 220:13, 222:11, 223:3, 224:17, 231:17, 235:5, 236:1, 236:4, 236:25, 239:4, 240:10, 241:18, 242:20, 243:16, 243:19, 246:1, 247:10, 247:13, 248:18, 248:25, 249:22, 250:22, 254:24, 255:3, 255:9, 256:9, 266:10, 266:11, 274:25, 277:4, 284:7, 286:19, 286:24, 289:1, 289:5, 289:8, 290:11, 299:20, 301:1, 307:7, 307:14, 307:20, 309:16, 310:19, 312:15</p> <p><b>Cambridge's</b> - 194:25, 252:22</p> <p><b>camera</b> - 320:13</p> <p><b>cannot</b> - 218:19</p> <p><b>capacity</b> - 199:22, 204:24, 205:14, 209:2</p> <p><b>car</b> - 179:19, 321:18</p> <p><b>care</b> - 184:22, 310:14</p> <p><b>career</b> - 282:21</p> <p><b>carefully</b> - 298:22</p> <p><b>carried</b> - 219:25</p> <p><b>Case</b> - 174:4</p> <p><b>case</b> - 186:19, 235:24, 257:11, 266:22, 266:23, 304:2, 322:15</p> <p><b>catch</b> - 178:8, 178:10, 189:1, 189:2, 189:10, 194:15, 200:12, 200:13, 210:16, 228:12, 249:3, 249:13, 320:19</p> <p><b>caused</b> - 178:21, 193:10</p> <p><b>causing</b> - 225:22</p> <p><b>center</b> - 245:7, 288:23, 297:11, 314:7, 314:9</p> <p><b>certain</b> - 222:19, 222:20, 225:21, 283:12</p> <p><b>Certainly</b> - 254:7, 286:23, 316:24</p> <p><b>certainly</b> - 310:8</p> <p><b>certainty</b> - 244:20</p> <p><b>certify</b> - 323:12</p> <p><b>chance</b> - 201:14, 215:10</p> <p><b>change</b> - 220:9, 227:13, 227:14, 276:13</p> <p><b>changed</b> - 277:12</p> <p><b>charge</b> - 230:1, 248:22,</p>			

281:23  
**check** - 289:11, 289:17,  
 302:1  
**checked** - 190:15, 190:19,  
 278:19, 291:14, 292:2, 292:5  
**Checking** - 176:11  
**checking** - 287:5, 302:3  
**chief** - 303:18, 303:21,  
 304:11  
**Christy** - 175:6, 188:15,  
 191:1, 191:2, 195:10, 222:1,  
 223:16, 223:19, 223:21,  
 224:4, 289:9, 293:18,  
 293:22, 294:4, 299:10,  
 299:12, 305:21, 306:8,  
 310:15, 310:25, 316:7,  
 318:20, 324:2  
**circumstances** - 284:2  
**cities** - 235:22  
**City** - 174:7, 177:1, 178:21,  
 181:21, 183:16, 184:19,  
 186:2, 186:5, 186:9, 186:12,  
 187:25, 188:10, 189:14,  
 190:5, 190:6, 190:18,  
 190:20, 190:23, 191:6,  
 192:11, 192:15, 193:4,  
 197:25, 209:23, 213:5,  
 222:9, 223:14, 224:24,  
 225:14, 228:17, 250:18,  
 252:4, 257:19, 257:21,  
 275:9, 276:2, 280:12,  
 281:14, 282:11, 285:7,  
 287:24, 287:25, 288:2,  
 288:4, 288:11, 292:1, 294:2,  
 298:4, 298:7, 298:12, 299:9,  
 300:19, 301:14, 302:21,  
 304:1, 304:7, 304:12,  
 306:17, 307:5, 307:20,  
 309:4, 309:5, 311:3, 316:2,  
 316:24, 317:6, 318:19,  
 321:24, 322:4, 322:10,  
 322:16  
**City's** - 190:2, 301:1,  
 301:5, 321:20  
**Civil** - 196:14  
**civil** - 283:10, 283:23,  
 283:24  
**claim** - 322:23  
**claiming** - 260:23  
**claims** - 322:14  
**clay** - 314:13  
**clean** - 295:17, 299:7  
**cleaning** - 217:17, 309:13  
**clear** - 184:25, 202:14,  
 207:11, 207:22, 209:14,  
 241:2, 250:9, 254:20, 260:3,  
 261:24, 263:16, 269:13,  
 269:16, 272:6, 272:7,  
 287:18, 298:16, 299:25,  
 322:13  
**cleared** - 207:17, 208:14,  
 209:3, 209:8, 226:9, 258:6,  
 258:9, 258:11, 271:17,  
 295:20, 299:14, 321:20  
**clearing** - 179:25, 211:21,  
 227:12, 232:9, 260:4, 261:3,  
 261:12, 261:17, 262:1,  
 266:25, 268:2, 268:5, 268:8,  
 271:22, 274:8, 277:15,  
 284:4, 284:25, 285:4,  
 287:23, 298:18, 309:24,  
 322:11  
**clearly** - 220:15, 289:5,  
 289:7, 289:8, 322:22  
**clerk** - 186:23, 233:18,  
 280:25  
**client** - 279:7, 279:19  
**cling** - 321:21  
**clogged** - 319:10, 319:11  
**close** - 181:5, 198:7,

270:3, 278:11  
**closer** - 245:16  
**closing** - 276:10  
**clothes** - 268:19  
**clumps** - 253:17, 299:22  
**coffee** - 228:6  
**coil** - 321:18  
**cold** - 194:7  
**collect** - 204:18  
**collector** - 253:15  
**colloquia** - 301:13  
**coloring** - 241:24  
**comfortable** - 231:6  
**coming** - 176:11, 221:23,  
 242:18, 249:2, 253:24,  
 270:9, 289:6, 296:3, 299:18,  
 299:19, 300:8, 306:21,  
 313:22, 314:7, 315:5, 315:11  
**Commissioner** - 199:14,  
 199:21  
**commissioner** - 199:15,  
 211:14, 226:22, 303:16  
**Common** - 225:16  
**common** - 226:6, 256:22,  
 258:25, 259:4, 259:8, 259:14  
**communicating** - 300:20  
**communications** - 316:1  
**company** - 234:6, 247:16,  
 247:21, 249:22, 257:19,  
 272:12  
**compared** - 181:18  
**comparison** - 244:10  
**compass** - 269:15  
**complain** - 213:22,  
 213:24, 250:13, 250:23  
**complained** - 213:8  
**complaint** - 182:22  
**complaints** - 182:21  
**complete** - 220:7  
**completed** - 235:25  
**completely** - 197:3  
**completing** - 244:21  
**complied** - 211:1, 250:2,  
 250:6  
**comply** - 249:21  
**complying** - 257:8  
**computer** - 292:13  
**concern** - 178:17, 178:19,  
 211:12, 211:23, 214:18,  
 228:16, 238:17  
**concerned** - 219:10,  
 286:17, 306:24, 319:14  
**concerning** - 250:24  
**concerns** - 181:3, 211:13  
**concert** - 320:7, 320:8  
**Concise** - 318:22  
**conclusion** - 244:15  
**concrete** - 200:18, 244:2,  
 244:5  
**condensed** - 260:12  
**condition** - 197:11,  
 200:12, 200:15, 200:17,  
 220:17, 252:3, 267:23, 273:2  
**confident** - 212:19  
**configuration** - 246:7,  
 246:8  
**confirmed** - 317:3, 317:14  
**confused** - 201:17, 291:17  
**confusion** - 322:22  
**connected** - 189:22,  
 297:10  
**connection** - 292:20  
**connotes** - 291:8  
**considered** - 187:19,  
 190:13  
**constantly** - 183:6  
**constituent** - 228:1  
**Construction** - 181:20,  
 184:20, 186:3  
**construction** - 176:24,

177:15, 200:24, 201:10,  
 201:12, 201:21, 201:22,  
 202:3, 202:5, 206:1, 206:8,  
 214:19, 214:25, 216:18,  
 227:23, 228:11, 234:13,  
 235:25, 265:20, 266:13,  
 266:14, 274:17, 274:23,  
 283:14, 283:16, 297:12  
**Consult** - 185:3, 185:15  
**consult** - 185:4, 185:7,  
 185:9  
**consultant** - 199:5, 199:9,  
 199:10, 199:19, 209:23,  
 210:1, 229:25, 285:25,  
 286:3, 286:11  
**consultation** - 185:20  
**consulting** - 208:21  
**contact** - 190:22, 228:17  
**contain** - 219:20  
**containing** - 256:2  
**context** - 214:9, 214:15,  
 214:17  
**continue** - 175:2, 287:21  
**continuing** - 309:11,  
 309:12  
**contour** - 235:15, 318:8,  
 318:9  
**contours** - 318:9  
**contract** - 184:19, 184:22,  
 185:2, 282:14, 282:17,  
 319:2, 319:8, 319:9  
**contracting** - 316:2  
**contractor** - 181:21,  
 182:16, 182:17, 182:18,  
 183:13, 185:4, 185:23,  
 207:11, 207:22, 255:8,  
 263:17, 287:23, 295:1,  
 308:6, 309:3, 316:7  
**contractor's** - 321:25  
**contractors** - 206:11,  
 282:18, 283:5, 295:16,  
 321:20  
**control** - 281:20, 282:10,  
 282:17, 282:25, 283:14,  
 283:18, 288:20, 322:13  
**controlled** - 179:7  
**conversation** - 303:15,  
 303:22, 304:15, 304:22  
**conversations** - 297:18  
**convinced** - 319:14  
**cooperative** - 301:13,  
 302:10  
**coordinating** - 283:5  
**copy** - 190:19, 190:23  
**corner** - 202:10, 204:14,  
 204:18, 213:9, 215:1,  
 215:21, 215:23, 236:12,  
 236:25, 243:19, 259:13,  
 269:13, 269:14, 269:18,  
 269:19, 274:15, 287:7,  
 287:8, 287:11, 289:22,  
 292:2, 292:7, 293:4  
**corners** - 236:16, 236:19,  
 237:7  
**corollary** - 280:11  
**Corps** - 281:12, 281:15,  
 281:16, 281:18, 281:23,  
 281:25, 282:6, 283:22,  
 285:18, 305:13  
**correct** - 180:13, 182:11,  
 186:3, 186:8, 187:16,  
 187:17, 187:20, 187:23,  
 187:24, 192:12, 194:10,  
 194:11, 194:14, 196:3,  
 196:13, 202:12, 202:18,  
 204:4, 204:5, 204:25, 205:4,  
 205:12, 205:13, 205:16,  
 205:24, 206:2, 206:5, 206:9,  
 209:3, 209:21, 210:11,  
 210:14, 211:11, 211:22,

211:25, 212:10, 212:11,  
 212:13, 212:23, 212:25,  
 213:3, 213:4, 213:7, 217:5,  
 217:7, 217:9, 220:23,  
 221:18, 221:25, 222:3,  
 222:24, 223:11, 224:3,  
 232:18, 233:3, 233:4, 233:7,  
 235:6, 236:4, 236:5, 236:23,  
 237:4, 238:7, 243:9, 247:5,  
 247:7, 247:12, 248:24,  
 249:13, 250:7, 250:12,  
 250:20, 252:11, 256:12,  
 256:13, 257:10, 258:12,  
 258:21, 259:19, 268:9,  
 268:12, 269:24, 270:6,  
 270:16, 270:18, 270:25,  
 274:8, 278:5, 319:9, 323:12  
**Correct** - 180:14, 186:4,  
 207:5, 241:8, 249:19  
**corroborate** - 200:3  
**cost** - 191:24, 229:3  
**counsel** - 225:25, 301:7  
**Counsel** - 321:3  
**count** - 227:5, 243:8,  
 251:8  
**counter** - 273:20  
**County** - 187:7, 187:9,  
 187:12, 196:1, 196:7,  
 199:14, 199:21, 211:10,  
 222:8, 222:9, 222:17,  
 222:18, 249:23, 274:24,  
 316:23, 317:16  
**county** - 190:11, 194:9,  
 199:9, 199:20, 206:12,  
 206:14, 225:15, 226:22,  
 227:24, 233:12, 235:18,  
 235:22, 271:13, 275:4,  
 275:6, 275:7, 317:10, 318:25  
**couple** - 178:8, 215:14,  
 232:4, 237:15, 262:11,  
 273:17, 282:3, 289:18,  
 296:7, 300:12  
**course** - 288:9, 309:10  
**Court** - 174:1, 174:21,  
 175:2, 177:24, 179:8,  
 183:14, 183:23, 184:1,  
 185:11, 185:15, 186:18,  
 186:21, 186:24, 191:21,  
 192:18, 192:23, 193:13,  
 193:20, 194:23, 195:18,  
 199:11, 207:4, 208:18,  
 210:20, 213:14, 214:6,  
 214:10, 215:14, 216:12,  
 216:15, 218:14, 221:9,  
 221:11, 222:23, 224:9,  
 225:8, 226:17, 228:22,  
 229:7, 229:10, 230:22,  
 231:5, 233:9, 233:11,  
 233:15, 233:19, 238:24,  
 239:14, 239:20, 241:19,  
 241:21, 242:1, 242:5, 242:8,  
 242:12, 246:12, 255:4,  
 255:25, 257:15, 259:21,  
 260:19, 263:11, 263:19,  
 268:23, 269:6, 269:17,  
 270:10, 271:6, 272:17,  
 272:20, 272:24, 275:22,  
 276:6, 276:18, 279:13,  
 280:5, 280:9, 280:13,  
 280:18, 280:22, 287:21,  
 288:6, 292:23, 294:21,  
 297:25, 300:23, 301:4,  
 301:7, 301:16, 303:4,  
 303:11, 303:19, 303:24,  
 304:9, 304:12, 304:14,  
 304:18, 304:25, 306:2,  
 306:4, 306:10, 307:11,  
 312:20, 312:23, 313:2,  
 313:5, 317:23, 319:3, 319:4,  
 319:21, 320:3, 320:8,

<p>320:12, 320:15, 320:20, 320:23, 321:2, 321:12, 322:18, 323:6</p> <p><b>Court's</b> - 233:16</p> <p><b>courtesy</b> - 190:20, 191:4, 191:6</p> <p><b>cover</b> - 183:25, 280:3</p> <p><b>covered</b> - 204:1, 255:13, 278:8, 283:24, 298:13, 298:15, 299:16, 300:12</p> <p><b>covering</b> - 297:20, 297:21</p> <p><b>Crandall</b> - 311:2</p> <p><b>crazy</b> - 264:17</p> <p><b>credibility</b> - 259:4, 259:8, 264:16</p> <p><b>creek</b> - 318:15</p> <p><b>Creek</b> - 282:12</p> <p><b>crew</b> - 237:13, 237:15, 237:19, 238:9, 243:22, 247:10, 262:18, 264:15, 278:8, 301:19</p> <p><b>cross</b> - 175:3, 193:3, 195:18, 210:22, 309:7, 309:8, 309:15, 311:15, 311:20, 317:15</p> <p><b>Cross</b> - 175:6, 195:21, 246:12, 246:15, 324:2, 324:6, 324:14</p> <p><b>cross-examination</b> - 175:3</p> <p><b>Cross-examination</b> - 175:6, 195:21, 246:15, 324:2, 324:6, 324:14</p> <p><b>crossing</b> - 283:20, 297:10</p> <p><b>crossover</b> - 195:10, 196:22, 198:16, 213:3, 213:5, 217:14, 218:9, 221:21, 223:2, 224:15, 251:2</p> <p><b>Crr</b> - 174:21, 323:17</p> <p><b>Csx</b> - 187:18, 187:21, 192:11, 192:20, 194:16, 224:15</p> <p><b>cubic</b> - 295:10, 296:7</p> <p><b>culvert</b> - 202:6, 218:7, 218:22, 219:6, 297:11</p> <p><b>cup</b> - 228:5</p> <p><b>cure</b> - 230:18, 230:24</p> <p><b>curing</b> - 230:20</p> <p><b>curiosity</b> - 267:22</p> <p><b>curlycues</b> - 240:15, 240:16</p> <p><b>Cut</b> - 222:13</p> <p><b>cut</b> - 185:24, 191:13, 191:14, 197:10, 204:8, 211:18, 213:3, 226:12, 230:25, 237:11, 237:21, 237:22, 239:1, 241:2, 243:2, 243:11, 244:22, 251:15, 251:16, 251:18, 263:7, 266:5, 268:25, 270:5, 271:1, 271:17, 272:11, 273:4, 273:8, 273:9, 290:24, 290:25, 297:12, 299:8, 307:7, 308:18</p> <p><b>cuts</b> - 271:3</p> <p><b>cutting</b> - 193:10, 202:6, 218:6, 218:9, 218:21, 219:6, 270:17, 286:15, 292:20</p> <p><b>cuttings</b> - 238:18, 238:21, 239:5, 239:8, 245:2, 245:4, 290:11</p> <p><b>Cynthia</b> - 183:12</p>	<p>247:1, 269:6, 312:20, 312:21</p> <p><b>Date</b> - 323:17</p> <p><b>dated</b> - 180:21, 183:11, 291:24, 291:25</p> <p><b>dateline</b> - 284:23</p> <p><b>dates</b> - 294:12</p> <p><b>daughter</b> - 315:7, 315:8</p> <p><b>daughter-in-law</b> - 315:7, 315:8</p> <p><b>Davis</b> - 174:14, 233:14</p> <p><b>days</b> - 229:21, 237:15</p> <p><b>deal</b> - 285:13</p> <p><b>debris</b> - 315:12, 315:13, 321:17, 321:22</p> <p><b>December</b> - 193:9</p> <p><b>decide</b> - 282:19</p> <p><b>decision</b> - 177:17, 177:23</p> <p><b>decision-making</b> - 177:23</p> <p><b>deep</b> - 195:2, 197:18, 197:22, 197:25, 244:5, 298:23, 298:24, 299:2, 314:19, 315:10</p> <p><b>defendant</b> - 304:2, 304:3</p> <p><b>Defendant's</b> - 207:4</p> <p><b>Defendants</b> - 174:8, 174:17</p> <p><b>defer</b> - 231:5</p> <p><b>define</b> - 259:23</p> <p><b>Define</b> - 197:5, 313:2</p> <p><b>definitively</b> - 279:5</p> <p><b>degree</b> - 244:19</p> <p><b>delivered</b> - 296:10</p> <p><b>demarcate</b> - 186:5</p> <p><b>demarcation</b> - 185:24</p> <p><b>denials</b> - 304:7</p> <p><b>denying</b> - 178:21</p> <p><b>department</b> - 234:12, 235:20</p> <p><b>depict</b> - 175:20, 246:9, 292:17, 315:21</p> <p><b>depicted</b> - 275:18</p> <p><b>depiction</b> - 175:13, 179:18, 179:22</p> <p><b>depictions</b> - 246:5</p> <p><b>depicts</b> - 239:24, 239:25, 240:20</p> <p><b>deposition</b> - 191:8, 203:2, 203:16, 209:6, 209:17, 215:13, 219:1, 219:14, 219:15, 246:22, 249:20, 260:9, 265:13, 267:17, 267:18, 270:14, 295:8</p> <p><b>depositions</b> - 254:20, 267:15</p> <p><b>depth</b> - 194:20, 269:2</p> <p><b>derive</b> - 244:21</p> <p><b>describe</b> - 200:17, 226:24, 237:25, 239:17, 239:23, 282:5, 290:10</p> <p><b>Describe</b> - 239:18</p> <p><b>design</b> - 204:24, 205:2, 205:3, 235:16</p> <p><b>designation</b> - 243:4</p> <p><b>designed</b> - 205:15, 219:20, 235:9</p> <p><b>designs</b> - 282:13</p> <p><b>Despite</b> - 232:12</p> <p><b>despite</b> - 206:10</p> <p><b>detail</b> - 214:3</p> <p><b>details</b> - 200:20, 236:11, 282:22</p> <p><b>determine</b> - 225:12, 252:16, 254:1, 256:1, 290:3</p> <p><b>determined</b> - 245:16, 245:21, 251:24, 252:12, 252:13, 293:2</p> <p><b>determining</b> - 274:20</p> <p><b>developer</b> - 235:21, 287:4</p> <p><b>developers</b> - 206:11</p> <p><b>development</b> - 194:9,</p>	<p>205:7, 206:7, 207:14, 254:24, 263:9, 281:15, 281:16, 284:8, 294:18</p> <p><b>Development</b> - 174:4, 286:1</p> <p><b>device</b> - 322:15</p> <p><b>diagram</b> - 242:25</p> <p><b>diameter</b> - 188:2, 190:17, 191:9, 198:5, 198:6, 225:23, 229:15, 230:14, 291:12, 296:20</p> <p><b>difference</b> - 305:24, 307:1</p> <p><b>differences</b> - 257:5</p> <p><b>different</b> - 183:20, 208:10, 216:3, 223:9, 224:5, 228:12, 231:16, 256:20, 285:10, 285:16, 285:20, 302:17</p> <p><b>Different</b> - 257:3</p> <p><b>Difficult</b> - 230:11</p> <p><b>difficult</b> - 241:25</p> <p><b>dig</b> - 217:18, 217:19, 298:23</p> <p><b>digging</b> - 278:8, 314:11</p> <p><b>dikes</b> - 282:19, 282:25</p> <p><b>dimmed</b> - 179:9</p> <p><b>Direct</b> - 187:3, 233:23, 281:6, 324:4, 324:12, 324:20</p> <p><b>direct</b> - 177:11, 177:16, 231:16, 231:23, 247:21, 312:24</p> <p><b>directed</b> - 219:23, 219:24</p> <p><b>direction</b> - 197:7, 216:23, 216:24, 223:4, 225:13, 231:16</p> <p><b>directions</b> - 184:24, 249:2, 269:15</p> <p><b>directly</b> - 179:10</p> <p><b>dirt</b> - 181:22, 182:1, 253:5, 255:2, 255:8, 256:1, 262:24, 265:3, 265:5, 265:6, 265:7, 266:7, 266:9, 267:9, 277:2, 279:6, 294:14, 294:16, 295:9, 295:10, 296:5, 296:12, 298:11, 299:6, 300:17, 300:18, 310:2, 310:6, 311:13, 311:16</p> <p><b>disagree</b> - 256:22</p> <p><b>disagreement</b> - 257:12, 257:15</p> <p><b>disapproving</b> - 206:4, 206:7</p> <p><b>disaster</b> - 294:17</p> <p><b>disbanded</b> - 298:2</p> <p><b>discharge</b> - 231:11</p> <p><b>discover</b> - 314:23</p> <p><b>discovered</b> - 315:24</p> <p><b>Discussion</b> - 184:4, 239:22, 261:7, 264:24, 301:8</p> <p><b>discussion</b> - 221:7, 280:14</p> <p><b>dispute</b> - 305:13</p> <p><b>disregard</b> - 288:7</p> <p><b>distance</b> - 293:13</p> <p><b>distress</b> - 322:24</p> <p><b>District</b> - 174:1, 174:11</p> <p><b>disturbed</b> - 240:24, 241:1, 242:21, 252:7, 262:17, 264:25, 269:14, 273:11</p> <p><b>ditch</b> - 188:3, 189:20, 189:21, 191:11, 191:17, 193:2, 217:17, 217:18, 217:19, 224:19, 231:11, 277:25, 297:12, 314:7, 314:9, 315:25</p> <p><b>ditches</b> - 278:3, 315:18</p> <p><b>Division</b> - 174:2</p> <p><b>document</b> - 183:20, 208:13, 208:16, 252:10</p> <p><b>dog</b> - 250:16</p> <p><b>dollars</b> - 296:7</p>	<p><b>done</b> - 190:9, 199:1, 199:2, 212:22, 213:21, 224:23, 224:24, 225:14, 225:21, 230:4, 230:5, 232:9, 235:2, 245:15, 248:11, 258:13, 260:5, 261:3, 261:12, 268:2, 275:15, 277:14, 277:15, 279:13, 280:16, 281:15, 291:15, 319:5</p> <p><b>door</b> - 280:10</p> <p><b>doors</b> - 321:8</p> <p><b>dots</b> - 242:22</p> <p><b>double</b> - 289:11, 289:17</p> <p><b>double-check</b> - 289:11, 289:17</p> <p><b>doubt</b> - 299:15</p> <p><b>Down</b> - 216:11</p> <p><b>down</b> - 178:10, 179:15, 186:21, 190:9, 196:1, 200:16, 200:19, 201:8, 203:1, 203:5, 203:6, 203:9, 203:12, 203:18, 203:22, 216:2, 216:10, 233:9, 237:21, 244:23, 246:19, 248:8, 249:1, 249:11, 254:13, 263:7, 264:15, 265:24, 266:5, 272:11, 280:18, 290:24, 290:25, 292:7, 293:12, 295:19, 295:21, 300:16, 300:18, 311:14, 313:19, 314:9, 314:14, 314:18, 314:22, 315:1, 315:2, 315:10, 316:4, 316:19, 318:11, 318:16</p> <p><b>downsized</b> - 247:25</p> <p><b>dozen</b> - 238:4, 296:3</p> <p><b>dozer</b> - 308:6</p> <p><b>drain</b> - 188:2, 188:18, 218:9, 272:3, 283:12, 296:16, 297:2, 297:6, 309:7, 309:8, 309:15, 311:20, 316:6, 316:14, 316:23, 316:24, 317:4, 317:15, 317:17</p> <p><b>Drainage</b> - 229:6, 229:13</p> <p><b>drainage</b> - 187:13, 187:14, 187:15, 188:2, 190:12, 193:11, 194:12, 194:15, 194:18, 195:14, 202:6, 204:22, 204:24, 205:15, 206:17, 206:21, 207:12, 207:19, 207:24, 209:18, 211:1, 213:9, 215:4, 215:18, 216:5, 217:14, 217:19, 217:22, 217:23, 218:7, 218:10, 218:21, 218:22, 219:6, 219:7, 219:23, 219:25, 220:5, 221:15, 226:3, 226:4, 228:14, 229:4, 229:7, 229:11, 230:10, 230:25, 231:17, 248:15, 248:18, 248:20, 248:25, 249:21, 271:13, 281:19, 282:8, 282:23, 296:13, 296:15, 296:25, 297:1, 297:4, 311:22, 317:16, 317:19</p> <p><b>drained</b> - 189:25, 224:17, 315:25, 318:14</p> <p><b>draining</b> - 199:7, 314:24, 317:25, 318:18</p> <p><b>drains</b> - 230:9, 314:23</p> <p><b>draw</b> - 272:10</p> <p><b>drawing</b> - 209:1, 215:23, 244:17, 246:2, 246:4, 271:12, 275:18, 307:25, 316:22, 317:1</p> <p><b>drawings</b> - 185:17, 185:22, 190:18, 274:23,</p>
<b>D</b>			
<p><b>damage</b> - 285:15</p> <p><b>damages</b> - 323:2</p> <p><b>dark</b> - 241:17, 254:17</p> <p><b>data</b> - 192:3, 215:6, 253:15</p> <p><b>date</b> - 190:8, 195:25,</p>			

287:4, 302:15, 316:24 <b>drawn</b> - 243:5 <b>dredging</b> - 281:21 <b>drew</b> - 235:24 <b>Drive</b> - 174:15 <b>driving</b> - 179:13, 208:6 <b>drove</b> - 179:14, 179:24 <b>dug</b> - 254:12, 254:14, 298:20, 298:22, 298:24, 299:2, 307:9, 307:10 <b>dump</b> - 267:8, 296:3 <b>dumped</b> - 295:22, 297:13 <b>dumping</b> - 295:25 <b>during</b> - 186:19, 242:9, 272:15, 297:12, 309:10 <b>During</b> - 179:8 <b>dust</b> - 315:6 <b>dye</b> - 225:4, 225:5, 225:12, 225:18, 225:21, 229:4, 229:8, 229:9, 229:22	283:23, 289:11, 310:8, 317:16, 318:25 <b>engineer's</b> - 181:2, 317:10 <b>engineering</b> - 192:2, 192:3, 225:20, 229:3, 235:20, 283:10, 283:23, 283:24, 288:19 <b>Engineers</b> - 281:12, 281:13, 281:19, 281:23, 281:25, 282:6, 283:22, 305:13, 318:6 <b>engineers</b> - 188:1, 316:13 <b>enjoyable</b> - 233:12 <b>entered</b> - 184:19 <b>entire</b> - 185:12 <b>entirely</b> - 322:12 <b>entitled</b> - 323:13 <b>equipment</b> - 270:17, 296:11, 298:20, 308:17, 321:25 <b>Erie</b> - 281:24 <b>especially</b> - 282:20, 290:8, 322:2 <b>establish</b> - 235:12, 292:22 <b>establishing</b> - 264:10 <b>estate</b> - 247:24 <b>estimate</b> - 191:19, 243:10 <b>estimated</b> - 197:17, 269:1 <b>Ethan</b> - 174:14 <b>evaluate</b> - 215:10, 226:4 <b>event</b> - 307:19 <b>eventually</b> - 306:12, 317:13 <b>evidence</b> - 189:22, 255:20, 256:7, 257:13, 258:22, 260:4, 261:16, 261:23, 264:19, 270:4, 274:2, 275:25, 276:17, 278:2, 280:2, 297:21 <b>evidenced</b> - 262:23 <b>evident</b> - 258:5 <b>evolved</b> - 286:12 <b>exact</b> - 190:8, 219:4, 263:17, 268:23, 293:18 <b>exacting</b> - 290:4 <b>exactly</b> - 223:7, 223:11, 228:24, 289:9, 305:23, 306:13, 306:14, 316:19, 317:12 <b>Exactly</b> - 275:16 <b>examination</b> - 175:3, 175:6, 195:21, 232:6, 246:15, 277:9, 324:2, 324:6, 324:10, 324:14, 324:18 <b>Examination</b> - 187:3, 224:12, 233:23, 271:9, 281:6, 324:4, 324:8, 324:12, 324:16, 324:20 <b>examining</b> - 221:21 <b>example</b> - 272:9 <b>excavating</b> - 310:19 <b>excavation</b> - 181:15 <b>Except</b> - 241:5 <b>excess</b> - 178:22 <b>excluding</b> - 323:4 <b>excuse</b> - 267:17 <b>Excuse</b> - 221:12, 228:20, 319:3 <b>exhibit</b> - 183:22, 205:19, 315:21, 322:21 <b>Exhibit</b> - 175:8, 175:17, 178:1, 179:4, 179:22, 180:6, 180:19, 180:20, 182:9, 183:10, 184:9, 184:16, 184:18, 189:9, 193:6, 195:9, 206:23, 207:4, 224:16, 239:24, 243:18, 244:14, 245:1, 245:24, 254:22, 262:12, 263:4, 264:23, 275:18, 287:11, 291:1,	309:18, 311:25, 315:16, 318:5, 321:17, 321:23 <b>existing</b> - 189:17, 235:15, 236:19 <b>expect</b> - 204:2, 205:17, 209:13, 248:22 <b>expects</b> - 206:14 <b>expense</b> - 225:18 <b>expensive</b> - 230:20 <b>experience</b> - 271:21, 282:6, 283:22 <b>expert</b> - 196:16 <b>expertise</b> - 192:2, 192:3, 231:2, 281:21 <b>Explain</b> - 288:17 <b>explain</b> - 234:9, 235:7, 243:24, 291:7, 293:1, 297:8 <b>exposed</b> - 299:3 <b>express</b> - 211:13, 221:5 <b>expressing</b> - 211:23 <b>extended</b> - 293:10 <b>extent</b> - 211:3, 229:14, 299:16 <b>eyeball</b> - 289:23	<b>felt</b> - 301:13, 315:25, 322:19 <b>fence</b> - 220:12, 220:15, 220:18, 220:19, 220:20, 220:22, 227:8, 228:7, 244:11, 245:17, 245:18, 256:8, 256:10, 256:11, 256:17, 256:19, 259:7, 259:16, 260:5, 260:7, 261:4, 261:13, 261:18, 261:20, 261:23, 262:1, 262:5, 262:7, 262:8, 262:9, 262:15, 262:22, 262:23, 263:2, 263:6, 263:7, 263:8, 263:9, 263:16, 263:18, 264:11, 264:16, 265:20, 266:13, 266:14, 269:22, 269:25, 270:5, 275:10, 275:12, 275:13 <b>fences</b> - 220:23 <b>fencing</b> - 265:19 <b>few</b> - 227:16, 229:24, 247:9, 289:4 <b>field</b> - 215:3 <b>fight</b> - 250:17 <b>figure</b> - 229:16, 243:5, 251:1, 305:17 <b>figuring</b> - 249:15 <b>file</b> - 190:16, 206:11 <b>filed</b> - 249:22 <b>fill</b> - 181:22, 182:1, 217:17, 295:2, 295:17, 296:13, 296:14 <b>filled</b> - 299:1, 315:12 <b>finally</b> - 224:7 <b>Findlay</b> - 234:4, 246:20 <b>fine</b> - 208:5, 242:11, 242:12 <b>fingers</b> - 299:18 <b>finish</b> - 279:12 <b>firm</b> - 208:21, 235:4, 235:24, 245:25, 251:1, 274:22, 316:2 <b>first</b> - 201:19, 202:22, 203:20, 212:24, 213:2, 221:18, 238:9, 242:13, 242:16, 243:22, 248:20, 253:18, 256:20, 267:3, 284:1, 284:3, 284:21, 285:6, 285:9, 286:8, 286:13, 291:20, 292:24, 295:10, 309:22, 309:23, 310:14, 310:16, 311:19, 316:25 <b>First</b> - 197:21, 285:3, 297:5 <b>fit</b> - 198:16, 198:18 <b>five</b> - 186:6, 198:4, 198:5, 256:5, 264:18, 264:19, 267:6, 271:2, 271:14, 280:21, 280:22, 289:13, 290:16, 290:18, 290:22, 298:24, 299:2 <b>Five</b> - 198:11, 295:15, 296:4 <b>five-minute</b> - 280:21, 280:22 <b>fixed</b> - 313:12, 313:13 <b>flag</b> - 236:12, 236:14, 236:21, 237:7 <b>flagging</b> - 243:21 <b>flew</b> - 321:22 <b>flood</b> - 281:19, 282:10, 282:16, 282:24, 283:14, 283:18 <b>flooding</b> - 177:20, 178:22, 193:9, 193:10, 205:6, 281:19 <b>flow</b> - 197:9, 204:13, 221:22, 230:16 <b>flowed</b> - 221:6, 229:16 <b>flowing</b> - 221:6, 229:19, 229:20, 230:7
<b>E</b>	<b>e-mail</b> - 180:21, 180:25, 182:10, 183:11, 184:9 <b>early</b> - 181:6, 194:4, 284:14, 314:4, 316:3, 316:6 <b>earth</b> - 181:22, 295:5, 295:25, 296:10, 297:14, 300:11 <b>easement</b> - 208:1, 208:7, 208:8, 271:14, 271:16, 271:21, 271:25, 272:4, 272:5, 272:7 <b>easements</b> - 207:21 <b>easier</b> - 230:18, 255:18 <b>Easily</b> - 256:18 <b>easy</b> - 288:23 <b>edge</b> - 298:15, 298:16 <b>educational</b> - 234:17 <b>Edwin</b> - 234:3 <b>effect</b> - 247:21 <b>effort</b> - 276:12 <b>eight</b> - 197:18, 238:4, 239:6, 245:8, 245:9, 314:18, 315:10 <b>Either</b> - 200:14 <b>either</b> - 191:15, 192:6, 210:2, 240:5, 250:13, 265:10 <b>electric</b> - 272:3 <b>electrical</b> - 178:5, 271:15 <b>elevation</b> - 181:18 <b>elevations</b> - 216:3, 235:15 <b>elliptical</b> - 181:24 <b>Elmo</b> - 270:8 <b>emotional</b> - 322:24 <b>Employed</b> - 304:12 <b>employed</b> - 234:6, 308:5 <b>employee</b> - 286:9 <b>emptying</b> - 313:24 <b>encountered</b> - 224:24, 230:18 <b>encroachment</b> - 210:5, 241:12, 249:18, 251:25, 252:2, 252:10, 252:12, 260:24, 266:19, 266:20, 267:3, 323:1 <b>encroachments</b> - 241:10 <b>end</b> - 237:10, 286:7, 291:21, 314:6, 315:11, 315:14, 319:16 <b>ends</b> - 314:8 <b>engineer</b> - 182:24, 182:25, 185:4, 185:5, 185:16, 187:7, 187:10, 187:12, 190:11, 196:12, 196:14, 199:10, 199:20, 209:2, 211:10, 222:8, 222:10, 222:16, 229:16, 235:8, 274:11, 281:11, 281:14, 282:15,	<b>F</b>	<b>facing</b> - 178:4 <b>fact</b> - 191:13, 198:12, 200:5, 200:22, 204:13, 204:21, 209:14, 212:5, 218:22, 219:7, 220:3, 232:15, 240:21, 248:10, 248:17, 252:19, 254:10, 257:18, 257:22, 258:22, 259:4, 267:13, 269:21, 277:14, 306:22 <b>facts</b> - 294:24 <b>faint</b> - 265:24 <b>fair</b> - 179:18, 179:22, 209:15, 214:24, 223:25, 231:3 <b>fairly</b> - 273:12, 273:15 <b>fairness</b> - 185:11 <b>fall</b> - 306:15 <b>falls</b> - 219:22, 220:2 <b>false</b> - 275:25 <b>familiar</b> - 204:21, 206:17, 248:15, 270:19, 270:24 <b>family</b> - 228:6 <b>far</b> - 196:18, 197:16, 205:9, 205:10, 205:14, 217:13, 219:9, 239:4, 241:9, 265:23, 283:10, 283:16, 283:24, 286:16, 286:17, 286:18, 290:14, 294:17, 306:24, 307:22, 307:23, 319:13 <b>farm</b> - 230:10, 230:13 <b>faster</b> - 281:1 <b>fault</b> - 266:16 <b>feasible</b> - 231:18 <b>feat</b> - 230:3 <b>February</b> - 247:2, 247:3 <b>feet</b> - 176:13, 178:8, 181:25, 186:6, 197:18, 197:19, 198:5, 198:6, 198:9, 198:11, 207:13, 225:23, 238:3, 239:6, 241:13, 241:14, 244:6, 256:5, 262:5, 262:9, 264:18, 264:20, 269:2, 271:2, 271:15, 273:18, 273:21, 288:25, 289:22, 289:24, 290:16, 290:18, 290:22, 293:12, 298:24, 299:2, 300:9, 300:10, 314:18, 315:10, 322:3, 322:9 <b>fell</b> - 185:13 <b>feller</b> - 322:7 <b>fellow</b> - 292:12, 302:8



<p><b>flows</b> - 225:11, 225:13 <b>flying</b> - 321:17 <b>focus</b> - 196:23, 229:10, 251:21, 279:25 <b>folks</b> - 222:9, 252:22, 255:1 <b>follow</b> - 182:18, 206:14, 207:15, 248:23, 260:1, 260:21 <b>following</b> - 261:6, 286:3, 296:12 <b>foot</b> - 181:24, 191:9, 198:7, 268:20, 305:1, 305:4, 305:23, 306:25 <b>Ford</b> - 175:18, 216:23, 249:1 <b>foregoing</b> - 323:12 <b>Forget</b> - 251:8, 297:18 <b>forgive</b> - 210:16 <b>forgot</b> - 210:22, 321:20 <b>form</b> - 210:5 <b>formalized</b> - 286:2 <b>forth</b> - 240:21, 249:25, 251:20, 270:20, 273:18 <b>fortunately</b> - 288:22 <b>forwarded</b> - 180:22, 182:13, 183:12 <b>foundation</b> - 193:16, 275:21, 280:14, 292:21, 294:21 <b>foundation's</b> - 193:14 <b>four</b> - 230:13, 238:22, 239:1, 267:7, 268:20, 269:2, 296:19, 298:24, 299:2 <b>four-foot</b> - 268:20 <b>frankly</b> - 322:20 <b>fraud</b> - 276:2 <b>free</b> - 296:5, 296:6 <b>freshly</b> - 299:8 <b>friend</b> - 227:20 <b>front</b> - 273:19 <b>frozen</b> - 194:6 <b>full</b> - 230:15, 315:13 <b>function</b> - 234:11 <b>funny</b> - 276:22, 280:3 <b>fuss</b> - 311:7</p>	<p><b>ground</b> - 191:10, 194:8, 197:16, 198:8, 227:15, 227:17, 235:10, 235:15, 237:22, 253:25, 258:6, 270:23, 274:4, 289:7, 290:16, 299:23, 299:24 <b>groups</b> - 253:17 <b>grow</b> - 299:22 <b>growing</b> - 180:8, 227:8 <b>grub</b> - 184:25 <b>guess</b> - 210:8, 215:18, 237:9, 240:14, 248:17, 251:8, 266:20, 310:8, 314:6, 318:15, 318:20 <b>guesstimate</b> - 235:1 <b>guest</b> - 199:21 <b>guideline</b> - 306:13 <b>guiding</b> - 245:22 <b>guy</b> - 252:25, 292:13 <b>guys</b> - 240:22, 287:1, 291:3, 291:15, 301:21, 301:24, 303:1, 305:15</p>	<p>276:4, 277:7, 279:11, 280:8, 301:15, 303:2, 303:10, 312:22, 313:1, 320:1 <b>Honorable</b> - 174:10 <b>hope</b> - 220:6, 233:11 <b>Hour</b> - 313:3 <b>hour</b> - 229:24, 230:1, 230:2 <b>hours</b> - 229:24 <b>house</b> - 178:3, 193:7, 239:18, 284:5, 284:6, 284:7, 285:11 <b>housing</b> - 247:20 <b>Huber</b> - 187:3, 187:7, 191:8, 193:22, 195:21, 195:23, 196:11, 202:16, 203:24, 210:16, 224:12, 224:14, 226:21, 232:6, 268:15, 268:18, 316:6, 316:22, 324:4, 324:6, 324:8, 324:10 <b>huge</b> - 205:2 <b>hundred</b> - 262:9 <b>hydro</b> - 270:16, 270:22, 273:9, 322:8 <b>hydro-axe</b> - 270:16, 270:22, 273:9, 322:8</p>	<p><b>indicates</b> - 244:18 <b>indicating</b> - 303:9 <b>indication</b> - 208:7, 208:8 <b>individual</b> - 249:3, 322:14 <b>individually</b> - 179:7, 253:17 <b>industry</b> - 226:6, 259:8 <b>inexact</b> - 257:1 <b>infliction</b> - 322:24 <b>inform</b> - 224:21 <b>informal</b> - 199:18 <b>information</b> - 182:18, 200:3, 200:4, 215:6, 235:16, 247:6 <b>informed</b> - 227:11, 318:17 <b>infrastructure</b> - 211:4 <b>initial</b> - 221:14, 221:23, 291:19, 317:11 <b>injure</b> - 185:14 <b>injury</b> - 322:23 <b>inquire</b> - 224:9 <b>inside</b> - 189:1, 297:2 <b>insistently</b> - 218:1 <b>inspector</b> - 311:2, 311:3 <b>installation</b> - 308:24, 314:14 <b>installed</b> - 194:18, 198:1, 211:6, 231:4, 247:14, 274:22, 296:22 <b>installing</b> - 310:20 <b>Instead</b> - 278:18 <b>instrument</b> - 253:14 <b>insult</b> - 260:2 <b>insure</b> - 211:4 <b>intact</b> - 220:13 <b>intended</b> - 209:1, 263:19 <b>intent</b> - 208:13, 208:16, 208:20, 209:5, 209:10, 211:16, 227:25, 228:14, 244:8 <b>intentionally</b> - 280:4, 280:12, 322:9 <b>interest</b> - 301:1, 304:4, 304:6 <b>intermediate</b> - 289:19, 289:20, 289:21, 289:24, 291:9, 291:14, 292:3 <b>interpret</b> - 222:15 <b>interrupt</b> - 253:19, 287:15, 307:12 <b>introduce</b> - 187:5, 233:25, 281:8 <b>inundate</b> - 220:3 <b>investigate</b> - 279:4 <b>investigating</b> - 300:9 <b>investigation</b> - 286:25 <b>invisible</b> - 212:16 <b>invite</b> - 199:13 <b>invited</b> - 199:15 <b>inviting</b> - 303:24 <b>involved</b> - 177:15, 201:18, 282:1, 282:7, 282:23, 283:3, 317:7 <b>involvement</b> - 247:10 <b>inward</b> - 266:3 <b>issue</b> - 188:10, 188:24, 196:22, 200:23, 201:6, 202:2, 202:11, 203:25, 204:3, 210:10, 211:14, 213:9, 214:25, 215:4, 215:20, 221:4, 249:16, 249:18, 279:18, 280:1, 309:6, 322:24 <b>issues</b> - 190:12, 201:8, 202:9, 215:18, 216:8, 216:10, 279:3, 282:1, 282:25, 322:21, 323:3 <b>itself</b> - 176:8, 198:5, 204:17, 204:21, 206:8, 211:5, 220:6, 322:2</p>
<p><b>G</b></p> <p><b>gal</b> - 183:24 <b>gamut</b> - 283:24 <b>gas</b> - 271:15, 283:17 <b>gazillion</b> - 262:24 <b>general</b> - 181:21, 208:22, 216:20, 217:1 <b>generally</b> - 216:23 <b>Generally</b> - 216:25 <b>gentleman</b> - 184:7 <b>gentlemen</b> - 233:19, 320:4 <b>gist</b> - 216:13, 305:6 <b>given</b> - 185:22, 276:1, 316:10, 316:18 <b>giver</b> - 207:3 <b>glare</b> - 255:17, 270:9 <b>government</b> - 235:22 <b>Gps</b> - 301:25, 302:15 <b>grade</b> - 181:12, 198:5, 207:11, 207:23 <b>grading</b> - 309:13, 310:1, 310:21, 311:13 <b>granddaughter's</b> - 320:7 <b>Granite</b> - 174:4, 210:2, 212:6, 286:1, 286:9 <b>grape</b> - 227:7 <b>graphic</b> - 315:17, 315:19 <b>graphics</b> - 189:4, 292:13 <b>grassy</b> - 318:15 <b>great</b> - 278:11 <b>green</b> - 228:7, 232:10, 232:15, 268:3, 287:13</p>	<p><b>H</b></p> <p><b>half</b> - 187:11, 190:7, 198:6, 230:15, 240:4, 282:14 <b>hand</b> - 175:8, 175:16, 179:4, 179:21, 195:4, 195:8, 213:12, 245:24, 292:6, 292:7, 299:7 <b>handing</b> - 178:1 <b>Handing</b> - 183:10 <b>hanging</b> - 290:21 <b>happy</b> - 321:6 <b>hard</b> - 240:22, 248:8, 293:21, 299:20 <b>haul</b> - 181:21, 181:23, 182:5 <b>hailed</b> - 256:4, 300:17 <b>hauling</b> - 294:14, 294:15 <b>head</b> - 192:2, 217:10, 281:12, 315:2 <b>header</b> - 248:4 <b>health</b> - 251:11, 251:14, 251:17 <b>hear</b> - 258:3 <b>heard</b> - 177:14, 186:25, 191:7, 212:20, 222:8, 222:9, 236:3, 320:21, 321:21 <b>hearing</b> - 211:7, 212:12 <b>hearsay</b> - 303:4, 303:8, 303:24, 304:3 <b>height</b> - 181:13, 182:7 <b>Heineman</b> - 302:7 <b>hell</b> - 228:19 <b>help</b> - 214:15, 241:22, 270:11, 279:19, 315:18, 319:5 <b>helped</b> - 179:10, 298:21 <b>hence</b> - 220:5 <b>high</b> - 181:25, 318:4 <b>higher</b> - 181:14 <b>himself</b> - 317:4 <b>hindsight</b> - 223:9 <b>hired</b> - 295:1, 308:6 <b>historical</b> - 259:5 <b>hit</b> - 322:15 <b>Holland</b> - 174:19 <b>Holmes</b> - 196:6 <b>home</b> - 281:16, 287:2, 318:23, 320:4, 321:5, 321:6 <b>honest</b> - 257:5 <b>honor</b> - 259:8, 263:7, 264:16 <b>Honor</b> - 175:4, 192:13, 203:15, 218:11, 225:24, 228:20, 231:1, 241:23, 246:11, 255:24, 257:14, 268:21, 271:7, 272:14,</p>	<p><b>I</b></p> <p><b>idea</b> - 189:23, 192:5, 192:15, 214:16, 214:22, 215:15, 258:19, 262:6, 266:5, 266:6, 267:10, 302:17 <b>ideas</b> - 285:10, 285:20 <b>identified</b> - 224:16, 245:5, 273:1 <b>identify</b> - 184:18, 309:17, 314:12, 315:4 <b>identifying</b> - 278:18 <b>ignored</b> - 319:18 <b>immediate</b> - 226:5 <b>immediately</b> - 204:15, 207:14, 309:7, 310:1 <b>impact</b> - 197:6, 197:8 <b>impacts</b> - 283:11, 283:19 <b>implemented</b> - 230:25, 235:25 <b>implicit</b> - 195:13 <b>implying</b> - 247:19, 278:23 <b>important</b> - 263:20 <b>importantly</b> - 216:17 <b>impractical</b> - 198:25 <b>impression</b> - 221:15, 221:18, 221:23, 228:15, 276:1, 300:25, 301:5 <b>improve</b> - 217:19 <b>inappropriate</b> - 322:1 <b>inch</b> - 230:13, 230:14, 230:15, 230:19, 291:12, 293:14, 300:2, 306:23 <b>inches</b> - 245:8, 245:9, 296:19, 296:20, 300:2 <b>incident</b> - 252:22 <b>incidental</b> - 283:15 <b>incidentally</b> - 262:3, 284:20 <b>Incidentally</b> - 204:20 <b>included</b> - 290:19 <b>including</b> - 211:1, 211:4 <b>Including</b> - 232:22 <b>incorporated</b> - 286:10 <b>Incorporated</b> - 234:8 <b>indeed</b> - 290:4, 306:14 <b>indian</b> - 207:3 <b>indicate</b> - 227:18, 230:17, 230:24, 293:1, 301:12, 321:15 <b>indicated</b> - 226:8, 271:12, 318:24, 322:18</p>	

J	L		lower - 204:16 lowest - 204:15 Ltd- 174:4 lunch - 179:1, 179:8
<p><b>Jack</b> - 174:10, 199:14, 212:25, 284:1, 284:19, 284:21, 285:9, 285:22, 286:4, 286:7, 287:4, 297:16 <b>Jim</b> - 180:21 <b>job</b> - 190:6, 210:13, 222:16, 241:21, 270:20 <b>jobs</b> - 281:13 <b>Joe</b> - 311:1 <b>John</b> - 180:25, 228:4, 236:9, 253:2, 253:3, 281:3, 281:6, 281:10, 324:20 <b>joint</b> - 305:10, 305:18 <b>Judge</b> - 174:11, 179:6, 239:12, 323:5 <b>judge</b> - 197:13 <b>July</b> - 188:16 <b>June</b> - 180:21, 181:6, 182:10, 183:11 <b>jurisdiction</b> - 210:9, 211:9 <b>Juror</b> - 241:15, 241:17, 241:20, 242:10, 242:11, 242:17, 320:6, 320:9, 320:14, 320:18, 321:1 <b>jurors</b> - 241:19, 242:15 <b>jury</b> - 175:25, 176:5, 182:6, 183:17, 187:5, 188:21, 189:7, 191:24, 204:6, 214:11, 223:12, 225:10, 228:18, 229:3, 230:17, 234:1, 234:9, 235:1, 235:8, 236:6, 236:15, 239:13, 239:17, 239:19, 239:23, 240:4, 240:9, 241:9, 241:24, 242:2, 244:19, 255:23, 258:3, 273:2, 273:19, 280:23, 281:8, 281:9, 284:1, 286:13, 288:7, 288:17, 290:10, 291:7, 293:1, 294:15, 294:24, 295:4, 295:24, 296:16, 297:5, 297:13, 300:5, 300:7, 300:19, 300:25, 301:12, 303:15, 306:7, 307:4, 308:4, 309:19, 310:23, 313:17, 318:4, 322:23 <b>Jury</b> - 174:11</p>	<p><b>label</b> - 322:7 <b>Ladies</b> - 233:19, 320:4 <b>lady</b> - 190:24 <b>laid</b> - 193:14, 249:7, 294:22 <b>Lake</b> - 281:24 <b>land</b> - 187:21, 200:23, 204:4, 216:2, 226:9, 234:12, 258:6, 258:9, 258:11, 266:19, 274:8 <b>lane</b> - 231:21 <b>large</b> - 289:4 <b>Laskey</b> - 199:14, 200:9, 211:13, 211:23, 212:2, 212:5, 226:10, 228:5, 268:1, 284:2, 308:5 <b>Laskey's</b> - 308:16 <b>last</b> - 175:25, 177:4, 191:6, 207:13, 238:21, 244:7, 261:1, 295:25, 296:7, 319:16 <b>late</b> - 224:22, 224:23, 320:16 <b>latest</b> - 268:13 <b>lath</b> - 306:23 <b>lathes</b> - 258:5 <b>law</b> - 315:7, 315:8 <b>lawyer</b> - 183:16 <b>lawyers</b> - 241:21 <b>laying</b> - 226:15, 227:16 <b>layout</b> - 234:13, 245:25, 274:17 <b>lead</b> - 225:7 <b>leading</b> - 192:14, 193:16, 225:25, 226:18, 226:19, 272:16 <b>leaning</b> - 256:8, 256:11, 269:25, 290:17 <b>learn</b> - 267:17 <b>learned</b> - 198:24, 236:6 <b>least</b> - 213:25, 221:22, 223:13, 249:20, 252:20, 260:22, 261:2, 261:11, 272:15, 279:19, 286:23, 289:24, 302:2, 305:12, 315:14 <b>leave</b> - 218:3, 237:5, 248:1, 263:8, 280:1 <b>leaves</b> - 180:12, 180:15, 205:23, 251:20, 315:3 <b>led</b> - 319:1 <b>left</b> - 179:15, 182:6, 220:14, 239:9, 241:3, 256:8, 292:6, 292:7 <b>left-hand</b> - 292:6, 292:7 <b>legend</b> - 207:9, 208:1 <b>length</b> - 229:25 <b>Leslie</b> - 183:14, 183:15, 183:16, 184:6 <b>less</b> - 198:13, 229:24, 230:6, 230:20 <b>letting</b> - 311:13 <b>level</b> - 218:5 <b>levies</b> - 282:18, 285:17 <b>levy</b> - 285:18 <b>license</b> - 234:20 <b>lid</b> - 313:13 <b>lifetime</b> - 235:2 <b>lift</b> - 231:10 <b>light</b> - 241:24, 253:17, 298:11 <b>lights</b> - 179:6 <b>likely</b> - 199:6, 199:24, 222:5 <b>limbs</b> - 311:18 <b>limits</b> - 236:17 <b>Linda</b> - 196:6 <b>line</b> - 176:14, 185:24,</p>	<p>189:13, 208:14, 209:8, 216:17, 219:9, 220:15, 220:18, 238:16, 239:25, 240:10, 240:12, 240:13, 241:17, 242:17, 242:18, 242:19, 242:20, 245:10, 245:14, 245:18, 245:21, 245:22, 257:6, 260:25, 261:1, 263:17, 265:25, 266:11, 271:15, 272:10, 273:13, 273:15, 273:16, 273:20, 279:2, 283:3, 286:18, 286:23, 288:16, 288:20, 288:23, 289:1, 289:10, 290:1, 290:2, 290:8, 292:6, 292:8, 292:9, 292:13, 292:18, 292:22, 293:2, 293:11, 293:12, 293:15, 293:16, 293:17, 293:18, 294:1, 294:6, 295:22, 299:19, 302:18, 306:13, 306:19, 312:10 <b>liner</b> - 292:4 <b>lines</b> - 186:1, 186:6, 190:8, 207:12, 207:23, 215:14, 216:3, 235:13, 272:4, 283:17, 283:20, 290:5, 301:22, 302:18, 306:14 <b>listen</b> - 321:13 <b>listening</b> - 322:25 <b>literally</b> - 257:23, 262:5, 314:24 <b>live</b> - 234:1, 234:3 <b>lives</b> - 284:11, 284:12, 315:8 <b>living</b> - 234:2 <b>loads</b> - 295:5, 295:9 <b>local</b> - 286:16 <b>locate</b> - 237:11, 238:10, 238:11, 252:14, 253:10, 259:13, 278:25 <b>located</b> - 253:17, 265:4, 273:14, 276:14, 292:1, 307:12 <b>locating</b> - 238:12, 238:13, 279:25 <b>location</b> - 189:18, 256:3, 257:6, 276:25, 308:17 <b>locations</b> - 274:20 <b>logical</b> - 223:5, 225:4 <b>look</b> - 180:20, 182:9, 182:22, 182:23, 188:24, 199:16, 202:19, 203:4, 203:6, 203:9, 203:12, 203:22, 204:9, 208:3, 215:25, 227:22, 244:10, 259:1, 262:11, 265:11, 267:15, 269:12, 279:21, 284:17, 286:24, 287:11, 291:1, 305:9, 315:2 <b>looked</b> - 189:13, 198:2, 202:20, 216:6, 228:6, 231:20, 233:2, 274:5, 275:10, 290:8, 296:19, 297:20, 310:7, 313:18, 315:2, 316:3 <b>looking</b> - 176:12, 197:11, 197:19, 201:16, 202:25, 203:17, 216:2, 216:4, 228:14, 230:2, 236:24, 254:11, 255:21, 257:1, 285:14, 285:16, 286:21, 307:1, 311:25, 313:10 <b>Looking</b> - 198:2 <b>looks</b> - 183:11, 254:25 <b>Lord</b> - 197:1 <b>Lori</b> - 315:7, 315:8 <b>Lori's</b> - 315:6 <b>low</b> - 205:7, 215:21, 217:3, 310:9, 318:5, 318:10</p>	<p><b>M</b> <b>machine</b> - 265:24, 298:21, 322:2 <b>magnitude</b> - 194:20 <b>mail</b> - 180:21, 180:25, 182:10, 183:11, 184:9, 321:21 <b>main</b> - 181:14, 197:25, 198:17, 198:23, 247:14, 259:2, 259:12, 259:14, 265:17, 281:21, 282:13, 285:8, 297:10, 297:12, 297:15, 302:17, 302:19, 308:24, 309:12, 310:20, 312:14, 313:11, 313:15, 316:16, 316:24, 318:7, 318:21, 319:15 <b>major</b> - 234:14, 307:19 <b>man</b> - 181:20, 184:20, 185:7, 186:3, 192:14, 269:9, 288:5, 302:7, 302:23, 309:3, 310:2, 310:15, 311:1, 312:11, 313:9, 322:11, 322:13 <b>man's</b> - 231:2, 311:1 <b>manhole</b> - 176:13, 176:17, 177:2, 188:2, 191:11, 193:11, 193:23, 194:1, 200:13, 202:19, 203:4, 204:10, 210:16, 216:6, 230:8, 233:2, 309:15, 309:19, 309:21, 310:5, 310:6, 310:10, 310:11, 310:17, 310:24, 311:14, 311:20, 312:2, 312:3, 312:4, 312:6, 312:8, 312:9, 313:9, 313:18, 314:15, 314:16, 314:17, 314:22, 314:25, 315:18, 315:24, 316:3, 318:1, 318:12, 318:13, 318:14 <b>map</b> - 183:23, 215:25, 216:1, 216:5, 264:22, 308:1, 318:1, 318:8, 319:5 <b>maps</b> - 318:9 <b>March</b> - 194:4 <b>mark</b> - 245:1 <b>Mark</b> - 236:16 <b>marked</b> - 175:16, 178:1, 179:21, 183:10, 183:22, 195:8, 206:21, 243:1, 288:13, 291:20 <b>markers</b> - 290:11 <b>market</b> - 247:21, 247:24, 248:3 <b>marking</b> - 275:12, 275:13 <b>markings</b> - 240:14, 258:4, 258:18, 258:23, 259:5 <b>marks</b> - 265:23 <b>Marv</b> - 207:3, 240:3, 307:23, 311:6, 322:9 <b>Marvin</b> - 174:13 <b>massive</b> - 266:3 <b>matches</b> - 317:18 <b>matter</b> - 240:21, 323:14 <b>Maumee</b> - 174:15, 220:1, 221:17, 231:23 <b>maze</b> - 300:2 <b>Mccarthy</b> - 180:25, 182:11, 183:2, 184:7, 212:24, 212:25, 213:8, 213:22, 214:17, 215:3, 218:1, 228:5, 236:9, 245:13, 252:25, 253:1, 253:3,</p>
K			
<p><b>K-11</b> - 254:22 <b>keep</b> - 182:20, 265:4, 276:8, 288:8, 311:22 <b>Keith</b> - 174:18 <b>kept</b> - 300:20 <b>kids</b> - 285:12, 322:2 <b>kind</b> - 178:12, 185:20, 196:8, 196:20, 221:1, 243:21, 265:25, 268:3, 283:6, 283:13, 283:21, 283:23, 283:24, 284:23, 285:15, 286:11, 288:21, 292:13, 298:7, 298:25, 302:16, 308:17, 317:14, 317:18 <b>kinds</b> - 227:6, 282:7 <b>knocked</b> - 310:3, 311:12 <b>knowing</b> - 189:21, 223:7, 279:22 <b>knowledge</b> - 232:1, 232:2, 251:3, 279:4 <b>known</b> - 277:12, 277:13, 277:17, 278:15, 279:3, 279:18 <b>knows</b> - 197:1, 204:12, 223:12, 225:25, 276:18 <b>Kovacik</b> - 183:16</p>			

254:12, 256:15, 263:3,  
265:2, 265:5, 267:1, 268:1,  
269:10, 278:7, 281:6,  
281:10, 293:2, 301:10,  
324:20  
**Mccarthy's** - 228:4, 255:1,  
255:8, 262:18  
**Meadows** - 174:19  
**mean** - 178:18, 192:8,  
216:21, 220:15, 236:14,  
238:1, 238:21, 238:25,  
241:1, 241:3, 244:17,  
251:19, 256:4, 257:4, 259:1,  
259:11, 260:17, 261:22,  
264:9, 265:15, 266:12,  
267:5, 267:6, 271:4, 271:17,  
272:6, 272:7, 273:3, 273:7,  
273:16, 274:19, 276:22,  
277:13, 278:22, 278:24,  
287:15, 289:20, 293:22,  
308:10  
**Meaning** - 315:1  
**means** - 185:4, 207:13,  
207:17, 243:2  
**meant** - 253:22  
**measure** - 287:17, 288:23  
**measured** - 287:3, 290:6  
**measurements** - 290:4  
**measuring** - 197:17  
**mechanical** - 174:25  
**meet** - 188:9, 188:15,  
190:6, 253:1  
**meeting** - 211:12, 212:7,  
212:24, 213:2, 214:18,  
222:2, 223:13, 223:14,  
223:18, 223:19, 223:20,  
223:21, 316:8, 316:9,  
316:13, 317:11  
**men** - 305:3  
**mention** - 177:8, 213:25  
**mentioned** - 177:6,  
202:14, 204:9, 204:20,  
214:21, 214:25, 305:5,  
310:16, 319:13  
**mentioning** - 214:17  
**meshing** - 220:25  
**message** - 190:5  
**met** - 188:16, 190:24,  
223:15, 223:16, 226:9,  
228:4, 228:5, 246:19, 284:1,  
284:3, 284:19, 284:21,  
316:21  
**metal** - 220:24  
**method** - 264:2, 264:13  
**microphone** - 319:6  
**middle** - 193:2, 197:11,  
293:5  
**Might** - 265:13  
**might** - 192:7, 211:24,  
227:24, 231:22, 238:3,  
252:9, 269:19, 272:2, 272:3,  
274:16, 279:21, 284:19,  
298:25, 302:17, 319:1,  
320:23  
**mike** - 186:24  
**mile** - 181:25  
**miles** - 264:17  
**mind** - 202:15, 212:1,  
223:6, 301:18, 311:24  
**minimum** - 198:13  
**minus** - 246:5  
**Minuscule** - 225:19  
**minute** - 233:15, 280:21,  
280:22, 300:4  
**minutes** - 258:13, 313:4,  
313:6  
**mirror** - 315:5, 315:9,  
316:4  
**misleading** - 318:12  
**missing** - 200:20

**mistake** - 179:2, 186:12  
**misunderstood** - 221:19,  
252:9  
**mitigate** - 285:15  
**mixing** - 322:9  
**Moline** - 177:10  
**moment** - 213:19, 239:21,  
287:10, 296:7, 314:20  
**money** - 285:23, 286:4,  
286:8  
**month** - 188:22, 190:7,  
202:23, 223:17, 227:2,  
296:1, 307:16  
**months** - 238:22, 239:2,  
267:7  
**monument** - 243:19,  
244:2, 244:9, 244:10,  
244:12, 245:16, 245:19,  
245:20, 259:2, 269:24,  
270:2, 270:5, 289:21  
**monumentation** - 274:19  
**monuments** - 236:18,  
274:7, 274:15, 274:22,  
287:6, 287:7, 287:8, 287:12,  
289:12, 289:18, 292:3,  
302:2, 302:13, 302:14,  
302:16  
**Morefield** - 183:12  
**morning** - 320:5, 320:9,  
320:25, 321:9  
**Most** - 266:9, 266:13,  
273:14, 299:6  
**most** - 198:3, 244:3,  
271:24, 274:18, 282:9,  
282:21, 283:8  
**mostly** - 197:4, 197:5,  
281:12, 281:14, 282:14  
**motioning** - 316:17  
**mound** - 285:17, 285:18,  
286:5, 294:9, 295:2, 295:11,  
296:14, 296:24, 298:3,  
298:6, 300:15, 300:16  
**move** - 183:18, 197:7,  
256:17, 272:24, 276:4,  
279:5, 294:19, 308:6,  
308:10, 308:17  
**Move** - 308:9  
**moved** - 201:14, 256:2,  
275:19, 278:17, 284:12,  
284:14, 308:14, 320:11  
**movement** - 274:2  
**moving** - 199:23, 199:24,  
222:10, 222:12, 223:23,  
288:8, 296:11, 320:7, 320:10  
**mowed** - 208:15, 209:9  
**mud** - 204:12, 273:3,  
294:25  
**must** - 214:3, 310:12  
**mystery** - 288:14

## N

**naked** - 250:4  
**name** - 177:14, 187:6,  
234:3, 281:10, 302:23,  
302:24  
**named** - 252:25  
**narrative** - 303:11  
**natural** - 204:17, 273:4,  
273:6  
**nature** - 237:14  
**navigable** - 281:24  
**near** - 194:16, 216:22,  
269:23, 288:19  
**necessarily** - 274:16  
**necessary** - 192:21  
**need** - 184:3, 186:25,  
208:14, 214:16, 215:5,  
222:6, 233:13, 239:20,  
243:24, 249:23, 292:23,

319:8, 321:3  
**needed** - 200:3, 237:16,  
252:14, 283:12, 316:14,  
319:10, 319:12  
**needs** - 192:15, 280:23  
**negative** - 247:20  
**neglected** - 311:10  
**neighborhood** - 197:18,  
235:3  
**never** - 177:14, 188:13,  
204:8, 209:23, 210:1, 210:4,  
217:13, 231:4, 262:9,  
278:12, 305:2, 311:24,  
320:21  
**new** - 274:13  
**New** - 242:5  
**next** - 181:15, 186:22,  
188:3, 199:25, 233:11,  
233:20, 261:16, 280:20,  
306:20, 307:19, 309:6,  
313:5, 315:16, 318:17,  
318:19, 321:22  
**nice** - 320:20  
**Nick** - 233:23, 234:3,  
246:15, 271:9, 277:9,  
291:20, 291:21, 298:8,  
301:21, 306:14, 306:18,  
307:24, 324:12, 324:14,  
324:16, 324:18  
**Nigh** - 233:23, 233:25,  
234:3, 242:25, 246:15,  
246:17, 271:9, 271:11,  
277:9, 298:8, 300:4, 301:21,  
306:14, 307:24, 324:12,  
324:14, 324:16, 324:18  
**Nigh's** - 306:18  
**Night** - 289:14  
**Nine** - 252:1  
**nine** - 269:15, 282:13  
**Nobody** - 263:2, 277:19  
**nobody** - 250:13, 277:18  
**none** - 232:1, 232:2, 305:4  
**norm** - 198:11  
**normal** - 205:3  
**Normally** - 198:15  
**north** - 240:2, 240:15,  
242:20  
**Northern** - 174:1  
**northwest** - 234:15  
**notation** - 271:12  
**note** - 176:22, 186:5,  
190:9, 208:22, 210:23,  
251:17  
**Noted** - 190:16  
**noted** - 185:17, 190:21,  
274:1  
**notereading** - 174:25  
**notes** - 203:24, 237:5  
**Nothing** - 277:6  
**nothing** - 205:25, 206:3,  
206:6, 214:11, 233:6, 236:3,  
247:13, 249:15, 250:11,  
251:1, 306:16  
**notice** - 212:2, 228:12,  
252:1  
**noticed** - 189:16, 242:13,  
252:14, 309:15, 309:24,  
310:2, 310:14, 310:17  
**noticing** - 248:7  
**nowhere** - 319:25  
**Number** - 175:9, 175:17,  
175:23, 178:2, 179:4,  
179:22, 180:6, 180:19,  
180:20, 182:9, 183:10,  
184:9, 184:18, 189:9,  
192:24, 193:7, 195:9,  
206:24, 239:24, 243:18,  
244:15, 275:18, 291:1,  
309:18, 315:16, 318:5,  
321:17

**number** - 183:25, 192:1,  
202:25, 231:24, 235:2,  
269:19, 281:13, 285:3  
**numbers** - 198:8, 246:8  
**numerical** - 209:22  
**numerous** - 243:7, 243:10

## O

**oak** - 227:5  
**oath** - 247:8  
**object** - 199:8, 218:11,  
225:6, 231:2, 276:4, 301:3,  
303:2, 303:8, 303:23, 304:24  
**Objection** - 177:19,  
191:20, 192:13, 193:12,  
194:22, 203:15, 208:16,  
210:19, 222:21, 225:1,  
226:14, 229:5, 230:21,  
238:23, 257:13, 259:20,  
263:10, 271:18, 272:19,  
275:20, 276:15, 287:20,  
288:1, 288:3, 292:19,  
292:21, 294:19, 297:23,  
300:21, 301:6, 301:15,  
303:17, 306:6, 317:21,  
319:19  
**objection** - 177:24,  
193:15, 218:17, 226:17,  
242:2, 272:17, 288:7, 321:16  
**obliterated** - 263:3  
**observe** - 189:1, 189:10,  
200:18, 236:24, 237:2,  
253:22, 309:22  
**observed** - 196:25, 237:5,  
237:18, 237:19  
**obstruct** - 204:13  
**obstruction** - 195:3,  
197:9, 204:11  
**obtain** - 185:16  
**obtained** - 192:10, 193:5  
**obviously** - 179:11, 213:2,  
228:23, 261:3, 261:12,  
268:10, 273:10, 318:13  
**Obviously** - 246:25, 247:5,  
273:8  
**occasion** - 193:24, 196:1,  
213:8  
**occur** - 221:15, 305:19  
**occurred** - 210:6, 232:1,  
232:2, 236:7, 241:10, 268:8,  
305:18, 307:15, 307:19,  
308:23  
**offended** - 266:17  
**offered** - 191:5, 321:17  
**office** - 190:10, 190:15,  
190:20, 195:14, 210:9,  
210:25, 211:3, 246:19,  
275:6, 282:3, 282:12,  
282:13, 302:6, 302:17,  
302:19, 303:21, 317:7,  
317:9, 317:10  
**offices** - 196:2  
**Ohio** - 174:1, 174:5,  
174:22, 187:8, 234:4,  
234:15, 234:16, 234:18,  
234:21  
**old** - 183:25, 189:3,  
189:14, 190:15, 200:18,  
214:22, 228:9, 230:9, 309:1,  
314:1  
**Old** - 174:4, 210:2, 212:6,  
285:25, 286:9  
**on-site** - 229:17, 316:21  
**once** - 267:15, 272:15,  
305:14, 315:1, 318:17  
**One** - 192:14, 237:3,  
263:11  
**one** - 175:22, 177:17,  
182:20, 184:12, 190:10,

<p>191:4, 192:24, 193:24, 194:16, 197:15, 198:21, 200:14, 204:16, 205:5, 205:19, 207:1, 212:17, 212:19, 214:21, 217:17, 221:1, 223:15, 223:16, 223:19, 223:20, 225:8, 230:14, 231:8, 231:13, 233:5, 236:25, 245:7, 249:11, 256:3, 256:22, 259:3, 259:7, 260:1, 260:23, 262:5, 265:24, 269:8, 269:22, 284:9, 284:10, 285:12, 287:11, 289:24, 291:3, 291:9, 291:12, 295:20, 296:2, 296:9, 297:14, 307:25, 308:11, 309:13, 311:6, 313:23, 314:9, 315:2</p> <p><b>one-inch</b> - 291:12</p> <p><b>ones</b> - 270:24, 307:7</p> <p><b>open</b> - 196:24, 203:4, 203:8, 231:24, 240:25, 241:1, 280:9</p> <p><b>opened</b> - 203:7, 203:10, 203:21</p> <p><b>opening</b> - 203:17</p> <p><b>operate</b> - 298:21</p> <p><b>operation</b> - 298:3</p> <p><b>operative</b> - 297:6, 297:7, 297:8, 297:9</p> <p><b>operator</b> - 298:21</p> <p><b>opinion</b> - 182:23, 193:17, 195:15, 198:24, 199:6, 210:5, 218:6, 218:21, 218:25, 219:5, 219:13, 219:15, 219:16, 221:5, 222:1, 222:25, 223:1, 223:6, 223:10, 224:5, 227:13, 244:15, 257:6, 274:14, 276:12, 316:10, 316:12</p> <p><b>opinions</b> - 222:19, 222:20, 222:22, 222:24, 244:20, 267:19</p> <p><b>opposed</b> - 283:4</p> <p><b>option</b> - 320:15</p> <p><b>options</b> - 231:24, 285:16</p> <p><b>orange</b> - 240:12, 241:11, 242:22</p> <p><b>order</b> - 193:1, 249:21, 293:19</p> <p><b>original</b> - 211:16, 228:14, 231:8, 255:16, 274:5, 308:18</p> <p><b>originally</b> - 182:10, 277:1</p> <p><b>Originally</b> - 235:10</p> <p><b>ought</b> - 191:2</p> <p><b>ourselves</b> - 286:6, 288:13, 314:11</p> <p><b>outlet</b> - 189:18, 220:3</p> <p><b>outlets</b> - 230:10</p> <p><b>outside</b> - 177:2, 193:25, 231:2, 256:4</p> <p><b>outweighed</b> - 322:22</p> <p><b>overhead</b> - 179:9</p> <p><b>overlay</b> - 315:17</p> <p><b>overload</b> - 249:12</p> <p><b>overrule</b> - 194:23, 276:19</p> <p><b>Overruled</b> - 218:14, 222:23, 238:24, 287:21, 297:25, 301:16, 303:19, 304:25</p> <p><b>overruled</b> - 177:24, 218:16</p> <p><b>own</b> - 283:6, 287:2, 301:18, 301:24</p> <p><b>owner</b> - 182:21, 182:23, 208:23, 234:7</p>	<p>213:16, 213:17, 214:4, 214:5, 214:15, 215:11</p> <p><b>Page</b> - 203:2, 260:13</p> <p><b>pages</b> - 222:6</p> <p><b>paid</b> - 296:8</p> <p><b>pan</b> - 315:6</p> <p><b>paper</b> - 321:21</p> <p><b>parallel</b> - 288:16</p> <p><b>paramount</b> - 223:6</p> <p><b>paraphrase</b> - 214:10, 214:16</p> <p><b>part</b> - 177:22, 185:15, 203:11, 203:19, 203:20, 204:3, 210:13, 240:19, 252:4, 282:2, 290:23, 298:17, 300:13, 300:14, 303:24, 310:3, 317:18, 321:18</p> <p><b>Part</b> - 317:19</p> <p><b>partially</b> - 299:1</p> <p><b>particular</b> - 208:9, 212:14, 215:8, 215:22, 216:4, 216:11, 225:22, 234:6</p> <p><b>particularly</b> - 281:17, 281:20, 282:9, 283:3, 299:16</p> <p><b>party</b> - 304:3, 322:15</p> <p><b>pass</b> - 190:14, 241:15, 242:2</p> <p><b>path</b> - 179:14</p> <p><b>pay</b> - 282:19</p> <p><b>paying</b> - 286:8</p> <p><b>pending</b> - 306:10, 322:21</p> <p><b>people</b> - 178:19, 206:10, 223:22, 237:3, 248:1, 281:17, 282:3, 282:13, 282:15, 282:24, 283:6, 285:21, 291:4, 305:11</p> <p><b>per</b> - 230:1, 296:7</p> <p><b>per-hour</b> - 230:1</p> <p><b>percent</b> - 181:16</p> <p><b>perfect</b> - 220:17</p> <p><b>perhaps</b> - 186:12, 311:1</p> <p><b>perimeter</b> - 271:25</p> <p><b>period</b> - 204:12, 234:20, 295:24</p> <p><b>Perkins</b> - 211:14, 226:10, 226:22, 227:18, 227:25, 228:3, 228:17, 229:2</p> <p><b>permanent</b> - 244:3</p> <p><b>permission</b> - 185:16, 192:10, 192:15, 192:22</p> <p><b>Permits</b> - 193:4</p> <p><b>perpendicular</b> - 296:17</p> <p><b>perpetrate</b> - 276:1</p> <p><b>personal</b> - 322:23</p> <p><b>personally</b> - 244:13, 263:15, 267:13</p> <p><b>personnel</b> - 300:20</p> <p><b>perspective</b> - 293:9</p> <p><b>pertinent</b> - 282:9, 283:8</p> <p><b>pest</b> - 183:3, 183:4</p> <p><b>Peterman</b> - 234:7, 234:9, 234:11, 289:16, 291:11, 291:12, 291:17, 291:18, 292:2, 293:3, 294:3, 298:9, 298:10</p> <p><b>phone</b> - 227:25, 236:9, 278:25, 304:17, 304:18</p> <p><b>photo</b> - 175:9, 269:6, 293:21, 294:1, 312:20, 312:21</p> <p><b>photograph</b> - 179:5, 216:5, 254:18, 255:14, 278:6, 278:7, 291:2, 291:4, 291:24, 292:17</p> <p><b>photos</b> - 269:9, 270:12</p> <p><b>physically</b> - 230:9, 261:25, 314:16, 315:22</p> <p><b>Physically</b> - 314:15</p> <p><b>pick</b> - 196:9, 231:23,</p>	<p>322:10</p> <p><b>picked</b> - 190:19</p> <p><b>picture</b> - 178:2, 193:7, 194:25, 216:3, 232:17, 260:23, 261:2, 261:11, 265:8, 265:11, 266:7, 266:12, 269:21, 291:7, 299:12, 312:13, 312:17</p> <p><b>pictures</b> - 252:15, 265:14, 270:7, 311:18, 314:5, 322:9</p> <p><b>piece</b> - 235:10, 313:12, 321:22</p> <p><b>pieces</b> - 262:14</p> <p><b>piled</b> - 226:12</p> <p><b>pipe</b> - 177:20, 181:24, 189:1, 189:12, 190:17, 191:10, 191:13, 193:11, 195:10, 195:14, 196:22, 196:24, 197:1, 197:10, 197:16, 198:4, 198:5, 198:7, 198:16, 198:18, 198:22, 199:6, 199:23, 204:8, 204:10, 204:11, 204:19, 209:17, 213:3, 213:6, 214:20, 217:14, 218:10, 221:21, 222:13, 223:2, 223:19, 224:15, 224:25, 225:23, 229:15, 230:19, 230:25, 231:4, 251:2, 265:14, 265:17, 266:9, 283:12, 296:25, 297:1, 297:9, 311:15, 313:23, 313:24, 314:13, 315:4, 315:5, 315:11, 317:4, 318:14, 318:18</p> <p><b>pipeline</b> - 200:24</p> <p><b>pipes</b> - 207:12, 207:18, 207:23, 283:11, 313:22, 316:20</p> <p><b>piqued</b> - 267:22</p> <p><b>Place</b> - 282:11</p> <p><b>place</b> - 179:14, 179:25, 181:15, 189:15, 214:19, 227:12, 238:8, 244:4, 244:12, 266:25, 268:10, 272:5</p> <p><b>placed</b> - 258:5, 274:9</p> <p><b>places</b> - 257:23, 277:21, 278:2</p> <p><b>placing</b> - 296:12</p> <p><b>plaintiff</b> - 233:20</p> <p><b>Plaintiff's</b> - 245:24</p> <p><b>Plaintiffs</b> - 174:5, 174:13</p> <p><b>plan</b> - 190:20, 191:3, 194:12, 194:15, 204:22, 204:24, 206:17, 206:21, 207:15, 208:3, 209:18, 211:1, 216:2, 217:22, 217:23, 224:15, 248:18, 248:20, 248:25, 249:21, 250:2, 250:7</p> <p><b>planning</b> - 205:25</p> <p><b>plans</b> - 186:2, 190:15, 190:17, 190:19, 190:23, 191:4, 194:9, 194:19, 195:4, 195:9, 198:2, 206:4, 206:7, 206:11, 206:15, 208:21, 211:1, 235:18, 235:20, 235:24, 248:15, 248:21, 248:23, 274:18, 274:19</p> <p><b>plant</b> - 237:21</p> <p><b>plastic</b> - 287:13</p> <p><b>plat</b> - 271:24</p> <p><b>plats</b> - 234:13, 275:5, 275:7</p> <p><b>played</b> - 179:8</p> <p><b>plugged</b> - 197:3, 197:4, 197:13, 223:4</p> <p><b>plus</b> - 191:10, 246:5</p> <p><b>Plus</b> - 304:6</p>	<p><b>Pm</b> - 175:1, 323:7</p> <p><b>Point</b> - 282:11, 295:15, 296:4</p> <p><b>point</b> - 189:6, 189:11, 189:23, 192:12, 198:25, 204:15, 215:8, 215:22, 216:4, 216:6, 216:11, 218:3, 221:20, 222:7, 222:25, 224:16, 234:19, 235:12, 236:9, 237:20, 239:13, 242:3, 242:15, 264:12, 273:11, 279:16, 285:23, 285:25, 290:12, 304:1, 304:16, 309:19, 313:6, 320:2</p> <p><b>pointed</b> - 207:9, 215:23, 217:13, 314:4</p> <p><b>pointer</b> - 240:9</p> <p><b>pointing</b> - 263:24</p> <p><b>points</b> - 204:17</p> <p><b>pond</b> - 204:19</p> <p><b>ponding</b> - 176:16, 193:25, 194:19, 204:20, 205:6, 205:18, 217:6, 232:16, 249:16, 283:11</p> <p><b>poor</b> - 210:17</p> <p><b>portion</b> - 195:12, 209:19, 222:17, 300:12</p> <p><b>position</b> - 199:12, 253:5, 274:5, 304:6, 304:10</p> <p><b>positions</b> - 248:2</p> <p><b>possible</b> - 231:9, 254:8, 254:9, 322:19</p> <p><b>possibly</b> - 213:21, 238:10</p> <p><b>post</b> - 267:18</p> <p><b>post-deposition</b> - 267:18</p> <p><b>posts</b> - 262:23</p> <p><b>pour</b> - 225:5</p> <p><b>practice</b> - 225:16, 259:15, 263:14</p> <p><b>prefer</b> - 266:19, 266:23, 267:5</p> <p><b>prejudice</b> - 322:22</p> <p><b>prepare</b> - 235:18, 235:20, 248:21, 309:12, 315:19</p> <p><b>prepared</b> - 186:2, 186:3, 245:25, 246:3, 249:22</p> <p><b>presentation</b> - 242:9</p> <p><b>preserved</b> - 244:4</p> <p><b>pretty</b> - 181:5, 194:7, 236:10, 237:6, 238:3, 254:17, 270:3, 273:22, 287:18, 298:3, 312:10</p> <p><b>previous</b> - 183:22</p> <p><b>prices</b> - 285:21</p> <p><b>primary</b> - 238:16</p> <p><b>principal</b> - 234:7</p> <p><b>print</b> - 239:23</p> <p><b>prism</b> - 253:16</p> <p><b>private</b> - 187:15, 187:19, 187:23, 193:1, 193:2, 199:25, 200:6, 204:15, 221:24, 229:1</p> <p><b>problem</b> - 179:11, 181:8, 182:24, 183:1, 191:25, 204:7, 212:1, 212:12, 213:25, 225:22, 230:17, 236:10, 237:14, 247:11, 279:18, 282:21, 284:22, 286:14, 286:16, 294:5, 301:25, 302:11, 302:13, 306:25, 319:15</p> <p><b>problems</b> - 282:20, 283:9</p> <p><b>proceedings</b> - 323:13</p> <p><b>Proceedings</b> - 174:25</p> <p><b>process</b> - 177:23, 188:25, 255:12</p> <p><b>produced</b> - 174:25</p> <p><b>professional</b> - 182:24, 191:5, 281:11</p> <p><b>proffer</b> - 321:10, 321:13</p>
<b>P</b>			
<b>page</b> - 185:1, 201:3,			



<p><b>project</b> - 177:15, 192:24, 199:4, 201:18, 206:1, 212:3, 212:6, 213:23, 222:17, 222:18, 226:5, 248:10, 248:11, 248:12, 258:25, 259:2, 259:12, 283:15, 283:18, 285:7, 285:8, 317:7</p> <p><b>projects</b> - 282:11, 282:17, 283:1, 283:2</p> <p><b>proper</b> - 193:13, 193:17, 200:13, 220:3, 294:21</p> <p><b>properly</b> - 211:6</p> <p><b>properties</b> - 250:3, 283:4, 283:5, 311:8</p> <p><b>property</b> - 176:8, 176:10, 176:12, 176:14, 178:19, 181:13, 182:21, 182:23, 186:6, 187:18, 187:19, 187:23, 188:23, 188:24, 189:1, 192:25, 193:1, 193:2, 193:3, 193:4, 194:16, 194:25, 196:19, 199:24, 199:25, 200:6, 200:7, 204:3, 204:15, 207:14, 208:8, 208:12, 208:13, 208:14, 209:7, 209:8, 209:14, 212:10, 213:10, 215:21, 216:22, 220:2, 220:5, 221:24, 227:19, 227:22, 228:9, 229:1, 235:13, 238:13, 238:14, 238:17, 238:19, 240:10, 242:18, 243:16, 244:23, 245:14, 249:11, 250:19, 250:24, 252:16, 255:2, 266:10, 266:11, 267:12, 269:14, 271:17, 271:22, 273:20, 273:21, 274:12, 276:13, 277:4, 286:18, 286:23, 286:24, 287:6, 287:8, 288:16, 288:21, 289:1, 289:5, 289:8, 289:19, 290:1, 290:2, 292:9, 292:18, 292:22, 293:2, 293:16, 293:17, 294:1, 295:23, 299:19, 299:20, 305:5, 306:19, 307:6, 307:7, 309:16</p> <p><b>prosecuting</b> - 196:6</p> <p><b>Protection</b> - 185:2</p> <p><b>prove</b> - 212:5, 319:12</p> <p><b>provide</b> - 184:22, 230:9, 247:22</p> <p><b>public</b> - 187:13, 187:14, 211:5, 211:8, 275:8, 283:1, 283:2</p> <p><b>pull</b> - 254:1, 270:23, 271:2</p> <p><b>pump</b> - 191:16, 231:9, 283:21</p> <p><b>pumping</b> - 191:12, 191:25, 192:11, 192:20, 192:25</p> <p><b>pun</b> - 263:19</p> <p><b>purpose</b> - 176:5, 226:3, 227:19, 227:21</p> <p><b>purposes</b> - 246:3, 246:6</p> <p><b>push</b> - 308:11</p> <p><b>pushed</b> - 254:4, 256:4, 256:10, 262:5, 262:8, 262:25, 277:2, 277:3, 310:7</p> <p><b>Pushed</b> - 256:5</p> <p><b>pushing</b> - 255:2, 255:8, 310:2</p> <p><b>put</b> - 192:11, 193:6, 198:22, 207:20, 209:17, 214:9, 214:15, 220:4, 225:12, 230:18, 231:3, 236:21, 239:3, 240:4, 244:9, 262:24, 272:1, 274:7, 283:18, 285:19, 289:18, 289:23, 290:2, 290:5, 290:7, 291:10, 291:13, 291:15,</p>	<p>292:3, 292:4, 292:13, 292:15, 293:4, 295:2, 295:11, 296:21, 296:23, 301:21, 306:13, 306:19, 306:20, 309:12, 313:12, 313:13, 319:13, 319:17</p> <p><b>Put</b> - 229:22</p> <p><b>putting</b> - 205:8, 259:13, 285:18, 287:2, 311:17, 319:15</p>	<p>324:6, 324:8, 324:10</p> <p><b>Ray's</b> - 317:9</p> <p><b>read</b> - 183:17, 185:12, 201:1, 202:24, 209:1, 214:9, 215:14, 240:23, 260:17, 260:19, 261:9, 263:22</p> <p><b>readily</b> - 275:8</p> <p><b>reading</b> - 185:12, 201:17</p> <p><b>readjust</b> - 296:13</p> <p><b>ready</b> - 246:23, 296:13, 300:16, 321:4</p> <p><b>Ready</b> - 280:20</p> <p><b>real</b> - 202:14, 227:24, 247:24, 273:7</p> <p><b>realize</b> - 313:4</p> <p><b>realized</b> - 286:13</p> <p><b>really</b> - 196:19, 197:24, 210:9, 215:9, 224:7, 236:11, 248:8, 251:19, 252:6, 256:6, 266:11, 267:2, 267:20, 270:15, 273:6, 273:10, 274:17, 274:18, 281:18, 284:3, 286:3, 299:15, 305:2, 308:2, 309:25, 310:16, 311:19, 312:18, 314:11, 314:12, 316:18, 316:19, 317:5, 317:7, 318:25</p> <p><b>rear</b> - 180:8, 207:11, 207:23, 209:2, 236:25, 249:24, 271:22</p> <p><b>rearranged</b> - 283:18</p> <p><b>reason</b> - 246:4, 247:19, 247:20, 275:11, 323:4</p> <p><b>reasonable</b> - 222:12, 244:19, 257:8</p> <p><b>reasons</b> - 192:14, 193:18</p> <p><b>recalled</b> - 298:8</p> <p><b>recalling</b> - 254:15</p> <p><b>receipts</b> - 294:13</p> <p><b>receive</b> - 296:14</p> <p><b>recent</b> - 176:4</p> <p><b>Recent</b> - 238:21</p> <p><b>recently</b> - 239:1</p> <p><b>recess</b> - 233:16, 321:9</p> <p><b>Recess</b> - 233:17</p> <p><b>rechecked</b> - 295:8</p> <p><b>recklessness</b> - 321:24</p> <p><b>recognize</b> - 175:11, 206:18, 254:23, 265:15</p> <p><b>recollect</b> - 202:13</p> <p><b>recollection</b> - 184:14, 213:13, 213:18, 227:13</p> <p><b>recommendation</b> - 319:20</p> <p><b>recommendations</b> - 319:24</p> <p><b>Reconvened</b> - 175:1</p> <p><b>record</b> - 184:4, 214:6, 239:22, 261:7, 264:24, 276:8, 301:8, 321:15, 322:14, 322:19, 323:13</p> <p><b>recorded</b> - 174:25, 275:5</p> <p><b>recorder's</b> - 275:6</p> <p><b>records</b> - 275:3, 275:4</p> <p><b>Recross</b> - 232:6, 277:9, 324:10, 324:18</p> <p><b>Recross-examination</b> - 232:6, 277:9, 324:10, 324:18</p> <p><b>red</b> - 245:10, 292:6, 293:17</p> <p><b>redesign</b> - 282:21</p> <p><b>redesigns</b> - 283:9</p> <p><b>redirect</b> - 224:9</p> <p><b>Redirect</b> - 224:12, 271:9, 324:8, 324:16</p> <p><b>redo</b> - 283:19</p> <p><b>refer</b> - 274:18</p> <p><b>reference</b> - 215:24, 259:5, 294:20</p> <p><b>referred</b> - 244:2</p> <p><b>referring</b> - 184:7, 191:1, 198:10, 243:15, 309:20</p>	<p><b>reflected</b> - 274:23</p> <p><b>reflects</b> - 253:16</p> <p><b>refresh</b> - 213:13, 213:18</p> <p><b>Refreshed</b> - 213:20</p> <p><b>regard</b> - 180:6, 271:22, 293:25, 294:25, 301:1, 308:23</p> <p><b>regarding</b> - 294:1</p> <p><b>region</b> - 310:9, 310:13, 318:11</p> <p><b>registered</b> - 234:4, 234:24</p> <p><b>regarding</b> - 308:25, 309:5</p> <p><b>rehire</b> - 248:1</p> <p><b>relative</b> - 188:10, 188:24, 201:17, 266:12</p> <p><b>relatively</b> - 274:13</p> <p><b>relevance</b> - 322:16, 322:19, 322:20</p> <p><b>rely</b> - 217:22</p> <p><b>remain</b> - 185:14</p> <p><b>remaining</b> - 240:21, 256:11, 258:23, 262:7</p> <p><b>remains</b> - 256:2, 256:10</p> <p><b>remarks</b> - 276:8</p> <p><b>Remember</b> - 233:16</p> <p><b>remember</b> - 178:14, 195:25, 215:24, 218:16, 221:6, 226:10, 238:5, 254:20, 265:14, 270:15, 285:6, 321:8</p> <p><b>remind</b> - 321:6</p> <p><b>remnants</b> - 241:7</p> <p><b>removal</b> - 185:2, 185:16, 217:21</p> <p><b>removals</b> - 185:18</p> <p><b>remove</b> - 249:23, 250:19, 308:8</p> <p><b>removed</b> - 185:14, 185:17, 185:24, 232:25</p> <p><b>rendered</b> - 222:20, 223:1</p> <p><b>repair</b> - 185:3, 200:16, 210:17, 313:10</p> <p><b>repaired</b> - 312:2, 312:3, 312:4, 312:11, 313:9</p> <p><b>Repeat</b> - 212:4, 218:8</p> <p><b>repeat</b> - 210:21</p> <p><b>repetition</b> - 210:15</p> <p><b>rephrase</b> - 191:22, 192:17, 225:2, 226:1, 268:9, 271:19, 275:23, 300:22, 303:13, 319:23</p> <p><b>replace</b> - 248:2</p> <p><b>Replanting</b> - 181:10</p> <p><b>report</b> - 176:22</p> <p><b>Reporter</b> - 174:21, 319:3</p> <p><b>reports</b> - 176:24</p> <p><b>represent</b> - 216:3, 240:16</p> <p><b>representatives</b> - 301:14</p> <p><b>represents</b> - 242:18</p> <p><b>requested</b> - 305:10</p> <p><b>require</b> - 209:7, 271:25</p> <p><b>required</b> - 248:25</p> <p><b>requirements</b> - 271:24</p> <p><b>reserve</b> - 186:18</p> <p><b>reserved</b> - 271:14</p> <p><b>residence</b> - 322:1</p> <p><b>residential</b> - 271:23</p> <p><b>residents</b> - 283:4, 286:16</p> <p><b>resolve</b> - 305:14</p> <p><b>resolving</b> - 282:21</p> <p><b>response</b> - 203:8</p> <p><b>responsible</b> - 187:12, 187:15, 190:11, 235:23</p> <p><b>retained</b> - 210:1</p> <p><b>retired</b> - 281:10</p> <p><b>retrieved</b> - 321:23</p> <p><b>review</b> - 217:2</p> <p><b>reviewed</b> - 235:22, 246:22, 248:17</p> <p><b>reviewing</b> - 213:17, 214:14</p>
<b>Q</b>			
<p><b>quad</b> - 318:7</p> <p><b>qualifications</b> - 219:17, 294:20</p> <p><b>qualified</b> - 270:15</p> <p><b>quarter</b> - 306:23</p> <p><b>quarter-inch</b> - 306:23</p> <p><b>questioned</b> - 321:7</p> <p><b>questions</b> - 186:17, 195:17, 231:3, 232:3, 246:10, 260:1, 267:21, 271:11, 278:16, 279:23, 279:24</p> <p><b>quick</b> - 233:14, 233:15, 237:7</p> <p><b>quit</b> - 234:19</p> <p><b>quite</b> - 283:22, 312:25, 313:2</p> <p><b>quote</b> - 228:7</p>			
<b>R</b>			
<p><b>radically</b> - 252:21</p> <p><b>rail</b> - 240:2, 321:18</p> <p><b>railroad</b> - 176:8, 176:10, 178:4, 187:18, 187:21, 189:3, 189:14, 189:17, 190:15, 190:17, 190:18, 190:23, 191:15, 192:11, 193:3, 195:6, 199:24, 200:7, 207:14, 214:22, 216:22, 217:22, 219:7, 220:12, 220:20, 220:23, 221:16, 221:24, 224:1, 224:18, 224:19, 228:10, 231:21, 238:13, 240:2, 242:20, 244:11, 245:17, 245:18, 250:3, 250:10, 250:19, 250:23, 255:2, 255:8, 256:8, 256:17, 256:19, 259:7, 259:16, 260:5, 260:7, 261:4, 261:13, 261:18, 262:14, 262:22, 263:8, 264:16, 269:22, 274:12, 275:10, 275:12, 275:13, 284:9, 284:10, 287:3, 287:16, 288:14, 288:15, 288:20, 288:22, 288:24, 290:7, 290:19, 293:11, 293:12, 295:19, 295:22, 296:17, 297:1, 297:2, 302:11, 307:6, 309:1, 309:6, 309:8, 311:10, 314:1, 314:7, 314:24, 315:18, 315:25</p> <p><b>railroad's</b> - 192:25</p> <p><b>railroads</b> - 191:17, 200:5</p> <p><b>rain</b> - 219:22, 229:23</p> <p><b>rainfall</b> - 205:3, 205:5</p> <p><b>rains</b> - 205:11</p> <p><b>Rains</b> - 205:14</p> <p><b>raised</b> - 182:7</p> <p><b>rake</b> - 315:3</p> <p><b>ran</b> - 188:1, 296:2</p> <p><b>range</b> - 229:13</p> <p><b>rather</b> - 218:1</p> <p><b>Ray</b> - 187:3, 187:6, 195:21, 224:12, 228:1, 232:6, 316:6, 316:22, 316:25, 324:4,</p>			

<p><b>Ric</b> - 181:20, 184:20, 185:7, 186:3, 269:9, 288:5, 309:3, 310:2, 310:15, 311:1, 312:11, 313:9, 322:11, 322:13</p> <p><b>Ric-man</b> - 181:20, 184:20, 185:7, 186:3, 269:9, 288:5, 309:3, 310:2, 310:15, 311:1, 312:11, 313:9, 322:11, 322:13</p> <p><b>Ric-man's</b> - 311:1</p> <p><b>rid</b> - 258:18</p> <p><b>right-of-way</b> - 192:21, 211:5, 211:8, 250:10, 255:9, 264:10</p> <p><b>rings</b> - 251:8</p> <p><b>river</b> - 283:3</p> <p><b>River</b> - 216:20, 216:21, 220:1, 221:17, 231:23</p> <p><b>Rmr</b> - 174:21, 323:17</p> <p><b>Road</b> - 175:18, 216:20, 216:21, 216:23, 216:24, 231:21, 231:22, 234:4, 295:15, 295:21, 296:4</p> <p><b>road</b> - 211:5</p> <p><b>roads</b> - 283:16</p> <p><b>roadside</b> - 249:1, 249:2</p> <p><b>roadways</b> - 234:14</p> <p><b>Robert</b> - 174:17</p> <p><b>Robon</b> - 174:13, 175:4, 175:7, 175:22, 179:12, 183:21, 183:24, 184:2, 184:5, 184:17, 185:13, 185:19, 186:17, 187:4, 191:22, 191:23, 192:17, 192:19, 193:19, 193:21, 194:24, 195:17, 199:8, 203:15, 206:23, 207:1, 208:16, 210:19, 218:11, 222:21, 224:10, 224:13, 225:2, 225:3, 225:9, 226:1, 226:2, 226:20, 229:6, 229:9, 229:12, 230:23, 232:3, 232:8, 233:24, 239:12, 239:15, 239:16, 240:6, 240:8, 241:16, 241:23, 242:3, 242:6, 242:14, 242:24, 243:14, 246:10, 257:13, 259:20, 263:10, 268:21, 271:7, 271:10, 271:19, 271:20, 272:15, 272:22, 272:25, 275:23, 275:24, 276:7, 276:11, 276:16, 277:6, 279:11, 280:2, 280:8, 280:21, 281:1, 281:7, 292:25, 294:23, 300:22, 300:24, 301:9, 303:9, 303:13, 303:14, 304:1, 304:18, 304:20, 311:24, 312:21, 312:25, 313:3, 313:8, 317:24, 319:7, 319:22, 320:1, 321:10, 321:15, 323:5, 324:3, 324:5, 324:9, 324:13, 324:17, 324:21</p> <p><b>rod</b> - 253:16</p> <p><b>role</b> - 199:18</p> <p><b>room</b> - 228:6, 280:24</p> <p><b>root</b> - 254:4, 278:19</p> <p><b>rooted</b> - 254:2</p> <p><b>roots</b> - 237:11, 237:22, 238:7, 244:22, 244:23, 253:24, 308:7</p> <p><b>rose</b> - 227:7</p> <p><b>Rossford</b> - 318:16</p> <p><b>rotten</b> - 239:3</p> <p><b>rough</b> - 192:5, 227:4, 235:1, 273:8</p> <p><b>roughly</b> - 176:13, 295:4</p> <p><b>Route</b> - 219:25</p>	<p><b>row</b> - 227:8, 241:24, 242:7, 242:8, 242:16, 273:12</p> <p><b>rub</b> - 302:4</p> <p><b>rule</b> - 198:3</p> <p><b>rules</b> - 233:16, 321:8</p> <p><b>ruling</b> - 323:4</p> <p><b>run</b> - 204:17, 229:25, 272:5, 296:2, 308:6</p> <p><b>running</b> - 231:21, 318:10</p> <p><b>runs</b> - 216:23</p>	<p><b>S</b></p> <p><b>safe</b> - 182:6</p> <p><b>sales</b> - 246:3, 246:6, 294:18, 294:20</p> <p><b>sanely</b> - 305:14</p> <p><b>sanitary</b> - 272:4</p> <p><b>sat</b> - 282:3</p> <p><b>satisfaction</b> - 183:8</p> <p><b>saw</b> - 178:16, 179:18, 180:15, 190:10, 190:13, 205:19, 206:18, 217:1, 221:2, 221:3, 226:25, 228:6, 232:10, 232:16, 245:2, 251:19, 252:22, 259:18, 260:4, 262:6, 262:9, 265:8, 265:13, 269:10, 275:17, 280:2, 284:24, 289:3, 290:15, 300:5, 300:7, 300:8, 305:3, 309:14, 309:23, 310:16, 310:23, 313:22</p> <p><b>scale</b> - 315:19</p> <p><b>scenario</b> - 228:13</p> <p><b>scene</b> - 277:12, 278:8, 278:9</p> <p><b>schedule</b> - 305:20</p> <p><b>scheduled</b> - 305:20</p> <p><b>school</b> - 234:19</p> <p><b>science</b> - 257:1</p> <p><b>scope</b> - 323:3</p> <p><b>Scott</b> - 177:11, 177:12, 177:13</p> <p><b>scratched</b> - 232:20, 268:19</p> <p><b>screening</b> - 228:8</p> <p><b>scrub</b> - 227:6</p> <p><b>seat</b> - 243:14, 319:4</p> <p><b>second</b> - 203:1, 241:24, 242:7, 242:8, 263:11, 307:5, 307:8</p> <p><b>secondly</b> - 192:14</p> <p><b>see</b> - 176:11, 176:13, 176:16, 178:4, 178:12, 180:10, 180:12, 189:12, 190:1, 191:3, 191:4, 192:24, 193:25, 196:25, 197:10, 197:11, 201:1, 204:10, 208:5, 208:6, 208:7, 208:9, 211:9, 212:9, 212:14, 217:6, 217:10, 219:11, 220:15, 227:15, 227:23, 228:1, 231:22, 232:12, 232:24, 236:16, 237:16, 237:21, 239:15, 239:20, 240:4, 240:5, 240:7, 240:21, 241:25, 242:8, 245:10, 246:5, 252:6, 254:10, 255:13, 255:15, 255:18, 257:25, 258:22, 260:14, 261:5, 261:16, 261:25, 262:20, 262:22, 263:24, 265:19, 265:25, 266:1, 266:7, 266:12, 266:19, 266:23, 267:23, 269:21, 270:4, 274:2, 277:25, 278:7, 278:10, 278:19, 279:22, 289:1, 289:2, 290:13, 298:17, 299:4, 299:20, 301:7, 313:18, 313:21,</p>	<p>314:6, 314:8, 315:11, 316:19, 320:6, 320:14, 322:20</p> <p><b>seeding</b> - 176:11</p> <p><b>seeing</b> - 178:14, 212:12, 254:20, 265:14</p> <p><b>seem</b> - 202:8</p> <p><b>send</b> - 301:18</p> <p><b>sending</b> - 321:5, 321:6</p> <p><b>sense</b> - 254:7, 306:12</p> <p><b>sensitive</b> - 190:12</p> <p><b>sent</b> - 184:9, 237:13, 302:4</p> <p><b>series</b> - 262:23</p> <p><b>services</b> - 247:22, 248:22</p> <p><b>set</b> - 258:8, 293:13, 321:4</p> <p><b>seven</b> - 238:4, 239:6, 241:14, 315:10</p> <p><b>several</b> - 194:15, 237:20, 262:8, 262:14</p> <p><b>Several</b> - 271:11</p> <p><b>severed</b> - 177:21, 188:19</p> <p><b>severing</b> - 178:24, 195:14</p> <p><b>sewers</b> - 272:4, 283:16</p> <p><b>shaded</b> - 241:11</p> <p><b>shall</b> - 207:11, 207:22</p> <p><b>shape</b> - 267:24, 273:8</p> <p><b>sheet</b> - 318:7</p> <p><b>shoots</b> - 299:4, 299:17, 299:24, 300:1, 308:1</p> <p><b>shoreline</b> - 283:2</p> <p><b>shortly</b> - 284:18</p> <p><b>shots</b> - 181:18</p> <p><b>show</b> - 185:23, 185:24, 206:21, 213:16, 219:2, 241:23, 245:14, 252:15, 255:16, 255:23, 256:7, 260:11, 270:8, 277:23, 299:7, 299:9, 317:3, 318:9, 321:23</p> <p><b>showed</b> - 186:1, 215:23, 216:6, 295:17, 316:23</p> <p><b>showing</b> - 175:9, 193:9, 195:10, 224:15, 242:15, 264:25, 265:24</p> <p><b>shown</b> - 190:17, 263:3, 274:19</p> <p><b>shows</b> - 194:15, 216:1, 235:14, 269:22, 278:11, 291:8</p> <p><b>shrub</b> - 185:17</p> <p><b>shrubbery</b> - 184:23</p> <p><b>shrubs</b> - 185:3</p> <p><b>shut</b> - 280:10</p> <p><b>Sibley</b> - 177:11, 177:13, 177:14</p> <p><b>side</b> - 176:16, 249:11, 257:23, 259:15, 260:5, 261:4, 261:13, 261:18, 261:23, 262:2, 263:8, 263:9, 266:13, 270:5, 276:8, 307:12, 307:14, 308:11</p> <p><b>sides</b> - 238:15, 260:6, 260:7, 276:8, 318:11</p> <p><b>silt</b> - 197:1, 204:12, 230:15</p> <p><b>similar</b> - 180:2, 205:18</p> <p><b>simply</b> - 198:22, 199:20, 223:3, 227:25, 230:18</p> <p><b>sit</b> - 230:7, 305:22</p> <p><b>site</b> - 178:13, 179:13, 190:6, 190:24, 199:15, 211:3, 226:24, 229:17, 237:15, 245:3, 267:24, 287:4, 289:11, 296:10, 300:11, 316:21</p> <p><b>sites</b> - 270:20</p> <p><b>sitting</b> - 196:4</p> <p><b>situation</b> - 215:10, 215:24, 279:14, 284:4, 286:12, 309:11</p> <p><b>Six</b> - 300:13</p>	<p><b>six</b> - 181:24, 181:25, 191:9, 197:22, 197:23, 198:4, 198:11, 230:13, 239:6, 241:13, 241:14, 245:9, 264:18, 264:20, 273:21, 289:13, 290:18, 290:22, 300:2</p> <p><b>six-foot</b> - 191:9</p> <p><b>size</b> - 247:16, 299:17</p> <p><b>sizes</b> - 243:6</p> <p><b>small</b> - 200:20, 298:15, 299:17, 300:3</p> <p><b>smaller</b> - 247:16, 247:18</p> <p><b>snow</b> - 194:7</p> <p><b>soil</b> - 254:16</p> <p><b>soils</b> - 250:1</p> <p><b>solely</b> - 219:21</p> <p><b>solution</b> - 231:12, 231:13, 231:14</p> <p><b>solutions</b> - 231:9, 231:13</p> <p><b>solve</b> - 181:7, 191:25</p> <p><b>someone</b> - 278:10, 280:23, 311:1</p> <p><b>someplace</b> - 182:3, 311:19, 318:9</p> <p><b>Sometime</b> - 313:11</p> <p><b>sometime</b> - 188:17, 236:3, 236:8, 237:9, 274:9</p> <p><b>sometimes</b> - 230:4, 230:5, 230:9, 264:8, 264:14</p> <p><b>Somewhat</b> - 248:16</p> <p><b>somewhat</b> - 285:17, 294:6</p> <p><b>somewhere</b> - 190:16, 194:4, 235:3, 239:7, 253:4, 289:10, 312:10, 314:6, 320:3</p> <p><b>son</b> - 228:4, 228:5, 284:20, 284:24, 285:9, 285:10, 285:13, 294:18</p> <p><b>son's</b> - 284:5, 284:6, 284:7</p> <p><b>Soncrant</b> - 175:6, 175:8, 188:15, 191:1, 195:10, 222:2, 224:21, 289:9, 293:23, 318:20, 324:2</p> <p><b>soon</b> - 228:22</p> <p><b>sorry</b> - 176:7, 180:22, 183:21, 183:24, 201:15, 214:8, 229:7, 241:19, 272:19, 274:11, 291:23, 307:11</p> <p><b>sort</b> - 277:3, 278:12, 306:15</p> <p><b>sorts</b> - 202:6, 272:2</p> <p><b>source</b> - 179:11</p> <p><b>south</b> - 239:25, 242:19, 297:11</p> <p><b>southeast</b> - 236:12, 269:13, 269:14, 269:16, 269:19</p> <p><b>southern</b> - 240:1, 240:13</p> <p><b>southwest</b> - 236:12</p> <p><b>Sp-86</b> - 185:1</p> <p><b>speaking</b> - 204:20, 216:25, 272:23</p> <p><b>special</b> - 184:22</p> <p><b>specific</b> - 196:18, 201:24, 201:25, 215:8</p> <p><b>specifically</b> - 215:12, 259:12, 272:8</p> <p><b>specified</b> - 198:12</p> <p><b>speeches</b> - 272:18</p> <p><b>spelled</b> - 208:9</p> <p><b>spent</b> - 234:18, 281:11</p> <p><b>Spielbusch</b> - 174:21</p> <p><b>Spore</b> - 174:21, 323:16, 323:17</p> <p><b>spot</b> - 205:7, 217:4</p> <p><b>spots</b> - 318:4, 318:5</p> <p><b>spread</b> - 238:1, 238:2, 238:5, 238:6</p> <p><b>Spring</b> - 174:19</p>
--	--	---	--	---

<p><b>spring</b> - 194:4, 236:4, 236:7, 236:8</p> <p><b>square</b> - 302:25</p> <p><b>stage</b> - 295:11</p> <p><b>stagnant</b> - 229:21</p> <p><b>stake</b> - 292:3, 294:5</p> <p><b>staked</b> - 307:5</p> <p><b>stakes</b> - 257:22, 257:25, 289:19, 289:20, 289:21, 290:1, 291:9, 291:13, 292:4, 293:4, 293:10, 293:11, 293:13, 301:22, 302:12, 302:18, 306:19, 306:20, 306:22</p> <p><b>staking</b> - 234:13, 274:18</p> <p><b>stampede</b> - 320:24</p> <p><b>stand</b> - 193:6, 210:21, 242:14, 272:21, 273:19</p> <p><b>standard</b> - 193:18</p> <p><b>standards</b> - 257:9</p> <p><b>standing</b> - 197:19, 203:25, 204:2, 204:7, 270:1, 280:23</p> <p><b>start</b> - 193:19, 215:18, 295:1, 295:2, 320:5, 320:16, 320:18, 320:23, 320:25</p> <p><b>started</b> - 228:12, 248:7, 284:22, 285:4, 285:16, 286:5, 286:21, 287:5, 294:11, 296:12, 296:14, 298:4, 309:6</p> <p><b>state</b> - 279:5, 320:10</p> <p><b>State</b> - 219:25, 234:18, 234:21</p> <p><b>statement</b> - 192:4, 213:11, 222:4, 223:5, 223:25, 231:8</p> <p><b>States</b> - 174:1, 174:11</p> <p><b>station</b> - 191:12, 191:25, 192:12, 192:20, 192:25, 231:9, 253:15, 283:21, 290:3, 291:14</p> <p><b>stationing</b> - 291:25</p> <p><b>stations</b> - 289:24, 290:7</p> <p><b>status</b> - 276:13</p> <p><b>Stawinski</b> - 321:11, 321:16</p> <p><b>Stay</b> - 322:2</p> <p><b>stay</b> - 186:6, 259:15, 322:8</p> <p><b>steel</b> - 321:11, 321:18</p> <p><b>stenography</b> - 174:25</p> <p><b>step</b> - 186:21, 233:9, 280:18</p> <p><b>stick</b> - 236:21</p> <p><b>sticking</b> - 299:5</p> <p><b>still</b> - 176:20, 184:3, 201:24, 212:9, 220:13, 223:6, 225:6, 227:13, 230:15, 232:10, 232:12, 240:20, 258:5, 258:14, 268:3, 274:4, 282:23, 294:9, 298:6, 298:25, 303:8, 306:11, 307:14, 309:11, 311:17, 315:4, 315:5, 315:14, 319:14, 322:20</p> <p><b>stop</b> - 287:10, 297:22</p> <p><b>stopped</b> - 297:19</p> <p><b>storm</b> - 219:20, 219:23, 219:24, 229:23, 272:3, 297:2</p> <p><b>straight</b> - 273:12, 273:15</p> <p><b>strike</b> - 257:16, 276:5, 294:19</p> <p><b>string</b> - 273:16</p> <p><b>stripped</b> - 207:15</p> <p><b>struck</b> - 280:5</p> <p><b>structure</b> - 204:14, 244:3, 278:19</p> <p><b>structures</b> - 226:4, 254:4</p> <p><b>struggle</b> - 322:20</p> <p><b>studied</b> - 278:17</p> <p><b>studies</b> - 196:20</p> <p><b>study</b> - 196:18, 225:20, 226:3, 229:4, 229:6, 229:7, 229:11, 229:13, 318:6</p> <p><b>studying</b> - 199:4</p> <p><b>stuff</b> - 232:25, 258:14, 263:9, 266:5, 290:24, 299:15, 305:3, 305:15, 315:3</p> <p><b>stump</b> - 243:1, 243:3, 243:5, 299:22</p> <p><b>stumps</b> - 237:25, 238:2, 241:6, 241:7, 245:6, 274:1, 274:3, 276:14, 289:5, 290:16, 307:25, 308:7</p> <p><b>sub</b> - 275:5</p> <p><b>subcontractor</b> - 288:10, 322:11</p> <p><b>subdivided</b> - 235:13</p> <p><b>subdivision</b> - 175:10, 176:1, 176:6, 176:7, 176:8, 178:4, 179:24, 180:8, 181:4, 181:15, 186:13, 187:22, 188:24, 193:8, 194:10, 194:13, 194:21, 204:17, 204:21, 218:7, 218:10, 218:23, 219:8, 219:20, 219:21, 219:23, 219:24, 220:6, 223:24, 224:18, 231:17, 234:13, 235:5, 235:9, 235:17, 236:1, 236:4, 236:13, 237:1, 238:14, 238:17, 238:19, 239:4, 239:25, 240:1, 240:11, 240:13, 241:10, 241:18, 242:20, 243:11, 243:19, 246:1, 246:9, 252:4, 252:20, 255:9, 259:13, 269:13, 271:23, 271:24, 272:1, 274:13, 275:5, 275:7, 286:19, 290:12, 290:14, 301:2, 307:20, 310:19, 312:15, 315:17, 322:1</p> <p><b>subdivision's</b> - 220:5</p> <p><b>subdivisions</b> - 234:14</p> <p><b>subjects</b> - 220:9, 222:19</p> <p><b>submitted</b> - 271:13</p> <p><b>Subparagraph</b> - 185:13</p> <p><b>subsequent</b> - 223:14</p> <p><b>subsequently</b> - 190:3</p> <p><b>subspecialty</b> - 196:12</p> <p><b>substantial</b> - 197:6, 197:8, 205:11</p> <p><b>substantiate</b> - 215:7</p> <p><b>suggest</b> - 250:16</p> <p><b>suggested</b> - 249:10, 275:9, 279:10</p> <p><b>suggesting</b> - 250:18, 250:20, 250:22, 276:3</p> <p><b>suggestions</b> - 181:7</p> <p><b>suit</b> - 232:22, 268:25</p> <p><b>Suite</b> - 174:14, 174:18</p> <p><b>summarize</b> - 214:24</p> <p><b>summer</b> - 176:3, 229:20</p> <p><b>summertime</b> - 194:3</p> <p><b>superimposed</b> - 245:13, 292:9, 293:17</p> <p><b>supervise</b> - 247:10, 322:10</p> <p><b>supposed</b> - 209:3, 244:7, 296:6</p> <p><b>supposedly</b> - 232:9</p> <p><b>surface</b> - 299:6</p> <p><b>surprised</b> - 204:2, 204:6</p> <p><b>survey</b> - 234:12, 235:11, 235:12, 235:14, 238:9, 239:13, 244:21, 247:10, 253:14, 256:20, 257:6, 257:19, 257:21, 257:22, 257:25, 259:1, 264:15, 265:25, 269:12, 271:25, 273:2, 274:1, 275:11, 275:18, 301:19, 303:18, 303:21, 305:10, 305:12, 305:13, 305:18, 306:18, 306:25, 307:24, 307:25</p> <p><b>surveying</b> - 243:25, 244:20, 256:25, 274:7, 274:12, 288:14, 293:9, 302:25</p> <p><b>surveyor</b> - 234:5, 234:24, 235:8, 263:15, 274:12, 274:14, 276:1, 290:11, 291:16, 301:20, 304:11</p> <p><b>surveyors</b> - 256:22, 275:9, 282:14, 283:6, 294:2, 299:9, 299:10, 301:20, 301:23</p> <p><b>surveys</b> - 234:12, 235:2, 298:8, 305:1</p> <p><b>suspicious</b> - 288:12</p> <p><b>sustain</b> - 275:22, 288:6, 294:22</p> <p><b>Sustained</b> - 191:21, 230:22, 272:20, 292:24, 301:4, 319:21</p> <p><b>Swan</b> - 282:12</p> <p><b>swing</b> - 186:25</p> <p><b>sworn</b> - 186:23, 233:18, 233:21, 280:25, 281:3</p> <p><b>symbol</b> - 243:3</p> <p><b>system</b> - 205:15, 209:18, 219:23, 219:25, 231:18, 292:1</p>	<p><b>T</b></p> <p><b>table</b> - 196:5</p> <p><b>tandem</b> - 253:4</p> <p><b>tangled</b> - 314:10</p> <p><b>tapped</b> - 297:3</p> <p><b>Taylor</b> - 308:5</p> <p><b>technician</b> - 176:25</p> <p><b>technique</b> - 253:12, 263:7</p> <p><b>telephone</b> - 272:2</p> <p><b>ten</b> - 186:6, 197:19, 197:23, 233:15, 245:8, 258:13, 271:14</p> <p><b>term</b> - 200:13</p> <p><b>terminal</b> - 189:3, 189:14</p> <p><b>terminology</b> - 214:23</p> <p><b>terrain</b> - 273:5, 273:6</p> <p><b>test</b> - 225:4, 225:10, 225:18, 225:21, 229:4, 229:8, 229:9, 233:5</p> <p><b>testified</b> - 268:18, 300:4, 321:19, 322:6, 322:12</p> <p><b>testify</b> - 220:21, 227:12</p> <p><b>testimony</b> - 193:17, 194:17, 196:23, 221:20, 228:15, 268:22, 268:24, 306:17, 322:21, 323:4</p> <p><b>theirs</b> - 306:21</p> <p><b>themselves</b> - 238:2, 302:10</p> <p><b>theories</b> - 257:3</p> <p><b>thereafter</b> - 284:19</p> <p><b>therefore</b> - 179:9, 211:8</p> <p><b>thick</b> - 180:10, 237:25</p> <p><b>thickness</b> - 198:6</p> <p><b>thinking</b> - 245:5, 310:12</p> <p><b>thirds</b> - 315:12</p> <p><b>thorny</b> - 227:7</p> <p><b>Thousands</b> - 243:12, 243:13</p> <p><b>thousands</b> - 243:15, 243:16, 244:24, 267:8, 273:1, 275:17, 300:5, 300:8</p> <p><b>three</b> - 187:11, 193:18, 238:22, 239:1, 264:16, 267:14, 296:19, 313:22</p> <p><b>Three</b> - 244:6</p> <p><b>throughout</b> - 234:15, 301:21</p> <p><b>Throughout</b> - 234:16</p>	<p><b>thumb</b> - 198:3</p> <p><b>thumbs</b> - 299:18</p> <p><b>tie</b> - 231:17</p> <p><b>tied</b> - 291:14, 302:15, 307:2, 311:20</p> <p><b>ties</b> - 290:19</p> <p><b>tile</b> - 188:2, 188:18, 230:13, 230:14, 296:16, 297:6</p> <p><b>tiles</b> - 230:10</p> <p><b>timeframe</b> - 201:16</p> <p><b>timeframes</b> - 201:18</p> <p><b>timetable</b> - 320:17</p> <p><b>timing</b> - 310:18, 312:13</p> <p><b>timing-wise</b> - 310:18</p> <p><b>today</b> - 178:16, 186:11, 192:7, 228:13, 230:20, 246:23, 253:15, 281:2, 297:6, 297:7, 297:8, 297:9, 315:22</p> <p><b>together</b> - 198:8, 203:23, 203:24</p> <p><b>toilet</b> - 247:25</p> <p><b>Toledo</b> - 174:5, 174:7, 174:22, 184:20, 188:1, 188:10, 189:3, 189:14, 189:15, 190:5, 190:6, 190:21, 191:6, 192:11, 192:16, 193:4, 209:24, 250:18, 252:5, 276:2, 281:13, 281:20, 282:1, 282:11, 287:24, 287:25, 288:2, 288:4, 288:11, 298:5, 301:14, 302:21, 304:2, 307:20, 316:2, 316:24, 317:7, 318:19, 321:24, 322:4, 322:10, 322:17</p> <p><b>tomorrow</b> - 320:5, 320:9, 320:25, 321:9</p> <p><b>tonight</b> - 320:8</p> <p><b>tons</b> - 262:24, 267:8, 279:6</p> <p><b>took</b> - 179:1, 179:14, 179:25, 181:15, 181:17, 190:23, 207:1, 214:18, 218:25, 227:12, 248:4, 266:25, 269:9, 291:2, 291:4, 314:5, 314:16</p> <p><b>tool</b> - 318:7</p> <p><b>top</b> - 192:2, 198:4, 198:10, 198:17, 198:18, 200:19, 231:10, 277:2, 295:3, 306:15, 309:1, 310:3, 311:11, 313:12, 313:13, 314:17</p> <p><b>topo</b> - 318:1</p> <p><b>topographic</b> - 215:25, 216:1, 235:11, 235:14</p> <p><b>topography</b> - 318:2</p> <p><b>topos</b> - 217:2</p> <p><b>tore</b> - 268:19</p> <p><b>total</b> - 253:14</p> <p><b>totally</b> - 201:17, 220:9</p> <p><b>touch</b> - 267:4, 289:10, 289:11</p> <p><b>Towards</b> - 217:6, 318:12</p> <p><b>towards</b> - 199:25, 216:23, 217:3, 221:16, 223:23, 243:11, 249:12, 256:8, 286:6, 317:25, 318:13</p> <p><b>Township</b> - 234:4</p> <p><b>track</b> - 224:18, 240:2, 287:3</p> <p><b>tracks</b> - 188:3, 212:9, 216:22, 221:16</p> <p><b>Tracy</b> - 174:21, 323:16, 323:17</p> <p><b>train</b> - 212:9, 212:12, 212:14, 232:12, 232:13</p> <p><b>trains</b> - 179:15</p> <p><b>Transcript</b> - 174:10</p>
--	--	---

<p><b>transcript</b> - 174:25, 201:5, 213:17, 213:18, 246:22, 260:13, 323:12</p> <p><b>transient</b> - 205:21</p> <p><b>transit</b> - 253:14</p> <p><b>transpired</b> - 301:17, 304:22</p> <p><b>treated</b> - 294:3</p> <p><b>tree</b> - 185:17, 238:2, 241:6, 243:3, 245:4, 251:7, 251:8, 266:3, 274:1, 274:3, 276:14, 284:4, 284:24, 285:15, 286:14, 292:20, 308:7, 309:24</p> <p><b>treeing</b> - 286:6</p> <p><b>trees</b> - 180:7, 181:9, 184:23, 185:3, 185:13, 185:14, 185:23, 226:12, 227:4, 227:5, 227:6, 227:15, 227:16, 227:17, 237:11, 237:20, 238:6, 243:1, 244:22, 245:6, 251:15, 251:17, 251:19, 258:5, 258:23, 261:3, 261:12, 261:17, 272:11, 285:5, 285:19, 286:24, 289:4, 289:7, 290:8, 290:20, 295:2, 295:11, 297:21, 298:5, 299:8, 299:14, 305:4, 308:13, 321:19</p> <p><b>trench</b> - 298:24</p> <p><b>trenches</b> - 254:11, 254:14</p> <p><b>trespass</b> - 244:16, 298:18, 323:1</p> <p><b>trespassing</b> - 287:19, 290:9</p> <p><b>Trespassing</b> - 287:22</p> <p><b>trial</b> - 272:15, 322:22</p> <p><b>Trial</b> - 174:6, 174:10</p> <p><b>trick</b> - 196:8</p> <p><b>tried</b> - 300:6, 305:20, 315:23</p> <p><b>Tried</b> - 231:16</p> <p><b>trip</b> - 237:13, 238:9</p> <p><b>trouble</b> - 305:16</p> <p><b>truck</b> - 295:13</p> <p><b>truckloads</b> - 253:4, 253:5</p> <p><b>trucks</b> - 296:3</p> <p><b>true</b> - 250:9, 265:16, 272:9</p> <p><b>trunks</b> - 299:5</p> <p><b>trusted</b> - 293:20</p> <p><b>truth</b> - 258:4</p> <p><b>Try</b> - 210:21, 214:16</p> <p><b>try</b> - 215:15, 222:14, 225:8, 226:4, 252:10, 272:15, 313:3</p> <p><b>trying</b> - 214:22, 215:2, 215:16, 215:17, 249:4, 252:16, 259:12, 264:4, 264:12, 270:10, 276:21, 276:22, 277:5, 278:24, 280:3, 286:6, 286:7, 298:4, 299:24, 301:25, 302:1</p> <p><b>tube</b> - 287:13</p> <p><b>tuned</b> - 318:25</p> <p><b>twice</b> - 267:14</p> <p><b>twisted</b> - 294:6</p> <p><b>Two</b> - 192:13, 202:22</p> <p><b>two</b> - 184:12, 189:22, 191:17, 203:19, 205:22, 215:2, 222:6, 225:23, 227:2, 237:7, 289:24, 300:2, 305:2, 305:4, 305:24, 306:25, 311:7, 313:22, 315:12, 320:10</p> <p><b>two-part</b> - 203:19</p> <p><b>type</b> - 180:7, 234:22, 245:2, 281:21, 282:16, 283:10, 305:5, 314:13, 317:15, 317:17, 321:25</p> <p><b>typical</b> - 227:8, 243:4</p>	<p><b>typically</b> - 200:5, 220:24, 225:20, 282:16, 283:1, 283:15, 283:20</p> <p><b>U</b></p> <p><b>unable</b> - 242:8</p> <p><b>unclear</b> - 304:9</p> <p><b>uncooperative</b> - 301:13</p> <p><b>under</b> - 189:13, 214:21, 219:6, 247:8, 284:2, 296:19, 299:6, 322:12</p> <p><b>underdrain</b> - 310:12</p> <p><b>underground</b> - 272:10, 299:23</p> <p><b>underneath</b> - 189:2, 224:18, 230:19, 316:16</p> <p><b>undisturbed</b> - 254:15, 266:19, 266:24</p> <p><b>unfair</b> - 218:12</p> <p><b>United</b> - 174:1, 174:11</p> <p><b>University</b> - 234:18</p> <p><b>Unless</b> - 294:21, 306:11</p> <p><b>unless</b> - 195:2, 264:18</p> <p><b>up</b> - 176:11, 182:18, 183:25, 189:25, 190:19, 191:16, 193:6, 195:5, 197:1, 201:25, 203:4, 203:8, 203:17, 207:20, 215:4, 226:12, 228:9, 231:23, 232:20, 236:12, 236:14, 237:7, 241:13, 252:20, 254:12, 263:16, 267:6, 268:19, 270:1, 278:8, 278:9, 278:11, 278:21, 280:4, 284:4, 284:9, 284:10, 284:15, 285:19, 288:16, 290:5, 297:20, 297:21, 298:13, 298:15, 299:5, 299:12, 299:14, 299:16, 299:18, 299:19, 299:25, 300:8, 301:7, 301:18, 302:25, 306:23, 309:5, 309:13, 310:1, 313:13, 314:10, 319:11, 320:19, 322:9</p> <p><b>upset</b> - 198:13</p> <p><b>utilities</b> - 207:12, 207:19, 207:23, 271:13, 272:2, 272:5, 272:8</p> <p><b>utility</b> - 272:11</p> <p><b>V</b></p> <p><b>vague</b> - 229:18</p> <p><b>value</b> - 198:7, 311:8</p> <p><b>values</b> - 209:22</p> <p><b>variables</b> - 230:12</p> <p><b>various</b> - 217:2, 259:5</p> <p><b>Vc</b> - 314:13</p> <p><b>vegetation</b> - 188:25, 199:16, 211:14, 211:17, 227:4, 227:8, 228:8, 249:23, 250:10, 250:19, 250:24</p> <p><b>vehicle</b> - 179:15</p> <p><b>verify</b> - 298:5</p> <p><b>Vermillion</b> - 185:7, 258:6, 258:9, 258:11, 322:12</p> <p><b>version</b> - 260:12</p> <p><b>video</b> - 320:12</p> <p><b>view</b> - 183:2, 216:2, 252:3, 296:16</p> <p><b>visible</b> - 236:16, 269:4</p> <p><b>vision</b> - 271:16</p> <p><b>visit</b> - 199:14, 212:17, 227:20, 233:11, 267:18</p> <p><b>visited</b> - 237:14</p> <p><b>visiting</b> - 176:6</p> <p><b>visually</b> - 236:24</p> <p><b>vitrified</b> - 314:13</p>	<p><b>Volume</b> - 174:9</p> <p><b>W</b></p> <p><b>wait</b> - 229:21</p> <p><b>waiting</b> - 218:15</p> <p><b>walk</b> - 321:4, 321:7</p> <p><b>walked</b> - 228:8, 228:9, 232:15, 232:19, 268:18, 268:24</p> <p><b>walking</b> - 188:25, 268:20, 309:23</p> <p><b>wall</b> - 198:6</p> <p><b>wants</b> - 318:22</p> <p><b>warm</b> - 229:20</p> <p><b>Washington</b> - 320:10</p> <p><b>water</b> - 176:16, 176:18, 177:2, 177:7, 178:12, 178:14, 181:13, 189:24, 191:10, 193:25, 196:16, 197:7, 197:9, 197:25, 198:17, 198:23, 199:7, 199:24, 200:6, 200:23, 201:6, 201:8, 201:22, 202:2, 202:10, 203:25, 204:2, 204:7, 204:14, 204:18, 205:22, 206:1, 213:9, 213:25, 214:18, 214:25, 215:20, 216:8, 216:10, 217:1, 217:21, 217:23, 219:21, 219:22, 219:24, 221:5, 221:22, 222:10, 222:12, 223:23, 224:1, 224:17, 225:5, 225:11, 225:12, 229:19, 229:20, 229:22, 230:7, 230:15, 231:10, 233:3, 233:5, 247:14, 248:11, 248:12, 249:11, 249:16, 259:2, 259:12, 259:14, 265:16, 272:4, 285:8, 296:19, 297:12, 308:24, 309:12, 310:20, 312:14, 313:11, 313:15, 315:25, 316:16, 317:25, 318:6, 319:15</p> <p><b>Water</b> - 220:2</p> <p><b>water's</b> - 176:20, 217:3, 223:4</p> <p><b>waterline</b> - 189:4, 189:15, 189:17, 190:14, 202:4, 202:5, 231:10</p> <p><b>waterlines</b> - 198:3, 274:21, 283:17</p> <p><b>waters</b> - 220:4, 281:24</p> <p><b>Watkins</b> - 174:18, 322:4</p> <p><b>ways</b> - 225:10, 256:20, 264:10, 289:23</p> <p><b>weaving</b> - 273:18</p> <p><b>Weaving</b> - 273:24</p> <p><b>weeds</b> - 251:12</p> <p><b>week</b> - 184:12, 295:25</p> <p><b>weekly</b> - 282:5</p> <p><b>weeks</b> - 320:10</p> <p><b>Western</b> - 174:2</p> <p><b>wetlands</b> - 282:1</p> <p><b>whatnot</b> - 316:20</p> <p><b>wherewithal</b> - 279:4</p> <p><b>whole</b> - 205:8, 214:9, 215:20, 228:12, 262:23, 289:4, 310:9, 310:13, 311:10, 316:15, 318:11</p> <p><b>wide</b> - 181:24, 181:25, 240:25, 241:1</p> <p><b>width</b> - 208:9</p> <p><b>wife</b> - 285:12</p> <p><b>wild</b> - 227:7</p> <p><b>wildflower</b> - 227:7</p> <p><b>willing</b> - 255:10</p> <p><b>window</b> - 228:6</p> <p><b>windshield</b> - 179:19</p>	<p><b>wiring</b> - 272:10</p> <p><b>wise</b> - 310:18</p> <p><b>Witness</b> - 199:13, 215:17, 216:14, 218:18, 221:10, 221:12, 228:20, 228:24, 240:7, 281:4, 304:17, 306:3</p> <p><b>witness</b> - 186:22, 186:23, 199:11, 208:10, 214:10, 225:7, 231:5, 233:18, 233:20, 242:3, 280:20, 280:25</p> <p><b>witnesses</b> - 227:11, 258:3, 269:9</p> <p><b>woman</b> - 196:4, 196:9</p> <p><b>wonder</b> - 176:20, 190:13, 190:18</p> <p><b>wondering</b> - 196:9</p> <p><b>Wood</b> - 187:7, 187:9, 187:12, 196:1, 196:7, 199:14, 199:21, 211:10, 222:8, 222:9, 222:17, 222:18, 249:22, 274:24, 317:16</p> <p><b>Woodlands</b> - 174:15</p> <p><b>word</b> - 199:5, 199:9, 209:11, 213:24, 217:8, 219:18, 222:21, 227:14, 263:20, 264:4</p> <p><b>words</b> - 219:22, 224:1, 257:2</p> <p><b>workmen</b> - 302:10</p> <p><b>works</b> - 186:24, 223:2, 251:2, 283:1, 283:2</p> <p><b>world</b> - 243:25, 288:19</p> <p><b>worse</b> - 222:11, 223:3, 311:12</p> <p><b>worst</b> - 290:15, 290:18, 290:22, 298:17</p> <p><b>Wow</b> - 264:17</p> <p><b>wrote</b> - 183:17</p> <p><b>Y</b></p> <p><b>yard</b> - 296:7</p> <p><b>yards</b> - 295:10</p> <p><b>year</b> - 224:6, 234:18, 239:2, 247:3, 286:3, 320:11</p> <p><b>years</b> - 187:11, 202:22, 215:2, 227:2, 230:8, 230:12, 244:7, 247:17, 281:11, 282:6, 289:13, 311:7</p> <p><b>young</b> - 190:24, 292:12</p> <p><b>yourself</b> - 187:5, 233:25, 281:8, 281:9</p> <p><b>Z</b></p> <p><b>Zouhary</b> - 174:10</p>
---	---	--	---